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DOCUMENTS

RELATING TO THE

Atchison, Topeka and Santa Fe Railroad Company.

VOLUME III

CONTAINING

DOCUMENTS RELATING TO RAILROAD COMPANIES ESTABLISHED UNDER
THE LAWS OF COLORADO, THE STOCKS OF WHICH ARE
HELD BY THE PRINCIPAL COMPANY.

INCLUDING THEIR CORPORATE POWERS, ISSUES OF CAPITAL STOCK,
MORTGAGES AND INDENTURES OF TRUST SECURING THEIR BONDS,
AND THE ACQUISITION OF THEIR STOCKS AND BONDS BY AND
THE LEASES OF THEIR ROADS TO THE PRINCIPAL
COMPANY, ALSO LEASES TO COLORADO
MIDLAND RAILWAY COMPANY.

BOSTON
1893.



H 4589.

VOTE OF DIRECTORS.

PASSED SEPT. 6TH, 1889.

VOTED that the General Counsel be instructed to compile and print for the use of the Board and the Executive and Legal Officers of the Company, a historical record, containing the Charters, Articles of Incorporation, Agreements of Consolidation, Mortgages, Leases, and any and all important legal or historical documents relating to the Atchison, Topeka and Santa Fe Railroad Company and all of its auxiliary or controlled companies, lines or properties.

At the request of JOHN J. McCOOK, *General Counsel*, and GEORGE R. PECK, *General Solicitor*, the compilation, of which this is the Third Volume, has been made by HENRY W. SWIFT, *Attorney of the Company*.

BOSTON, 1893.

DOCUMENTS

RELATING TO

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

A corporation called "The Pueblo and Arkansas Valley History of Company. Railroad Company" was incorporated under the laws of the Territory of Colorado on March 24, 1875, and on September 29, 1875 was consolidated with two other companies previously organized under the laws of the said Territory, viz: the Colorado and New Mexico Railroad Company and The Pueblo and Salt Lake Railway Company. The consolidated company preserved the name of The Pueblo and Arkansas Valley Railroad Company without change.

An amendment to the charter of this company was filed on July 30, 1878, and on September 12, 1878 the company was consolidated with the Canon City and San Juan Railway Company, which had been incorporated on February 19, 1877. The consolidated company still retained the name of The Pueblo and Arkansas Valley Railroad Company. An amendment to its charter was filed on March 21, 1887, and a second amendment to its charter was filed on May 25, 1888.

It will thus be seen that there were three different corporations successively called "The Pueblo and Arkansas Valley Railroad Company," the powers of the first two now being held by the third together with the powers of the other consolidating companies.

In order to conveniently distinguish the three successive companies of the same name, they have been respectively designated in the following pages by the Roman numerals I, II and III.

The following table shows the successive steps in the creation of the present company:—

TABLE
SHOWING THE SUCCESSIVE STEPS IN THE FORMATION OF
THE PUEBLO AND ARKANSAS VALLEY RAIL-ROAD COMPANY.

Colorado and New Mexico R.R. Co. (Incorporated July 5, 1873.)	{	Consolidated Sept. 29, 1875 into The Pueblo and Arkansas Valley R.R. Co. (Amendment to Charter filed July 30, 1878.)	{	Consolidated Sept. 12, 1878 into The Pueblo and Arkansas Valley R.R. Co. (Amendment to Charter filed March 31, 1887.) (Second Amendment to Charter filed May 25, 1888.)
The Pueblo and Salt Lake R'y Co. (Incorporated Dec. 13, 1873.)				
The Pueblo and Arkansas Valley R.R. Co. (Incorporated March 24, 1875.)				
Canon City and San Juan K.R. Co. (Incorporated Feb. 19, 1877.)				

MILEAGE
OF
THE PUEBLO AND ARKANSAS VALLEY R.R. (III.)

From a junction with the road of the Atchison Co. at the western boundary line of Kansas to Pueblo, including Pueblo "Y" and "Loop Line"	150.23	miles
From Pueblo to Rockvale including the Clelland "Y"	37.236	"
From Clelland to Canon City	10.115	"
From La Junta Junction to the northern boundary of New Mexico	96.58	"
Total mileage	294.161	"

ARTICLES OF INCORPORATION
OF THE
COLORADO AND NEW MEXICO RAILROAD
COMPANY.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Sec'y of State.

I, Melvin Edwards, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Incorporation of the Colorado and New Mexico Railroad Company, which was filed in this Office the Fifth day of July A.D., 1873, at 10 o'clock A.M., and admitted to record.

Articles filed
July 5, 1873.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver, this Eighteenth day of April A.D., 1885.

[SEAL OF STATE]

MELVIN EDWARDS,
Secretary of State.

The undersigned, Joseph Nickerson, Isaac T. Burr, Thomas Nickerson, Alden Speare, O. W. Peabody, George B. Wilbur, Benj. P. Cheney, Charles W. Pierce, Henry Strong, Jonathan S. Nickerson, A. B. Laurie, do hereby certify that we have associated ourselves together as a corporation, under the laws of the territory of Colorado, for the purpose of building and operating a railroad as hereinafter in these articles described and have adopted these articles of incorporation.

Names of
incorporators.

ARTICLE 1. The name of this Corporation is the **COLORADO AND NEW MEXICO RAILROAD COMPANY.**

Corporate name.

Art of Inc. C. & N. M.
Corporate purposes
and authorized line.

ARTICLE 2. This Corporation is formed for the purpose of building and operating a railroad, and telegraph line from the present Western terminus of the Atchison, Topeka & Santa Fe R.R., at the Western boundary of the State of Kansas, thence in a Westerly and a South Westerly direction, through the Counties of Bent and Las Animas in Colorado Territory to Santa Fe and Albuquerque in the Territory of New Mexico and also a road from the most suitable point on the said line through the Counties of Bent and Las Animas to Trinidad and also a road to Pueblo, all in Colorado Territory.

Capital Stock.

ARTICLE 3. The Capital Stock of the Corporation is two hundred and fifty (\$250,000) thousand dollars, divided into shares of one hundred dollars each. The Capital Stock may be increased by a vote of a majority of the Stockholders or by a vote of three-fourths of all of the trustees. Each share shall be entitled to one vote at any of the Stockholders meeting, and the holder thereof may vote either in person or by proxy.

Term of corporate
existence.

ARTICLE 4. The Corporation shall continue for twenty (20) years and may be renewed by a vote of the Stockholders.

Trustees and officers.

ARTICLE 5. The business of the Corporation shall be transacted by a board of nine trustees and such officers as they shall appoint. Said Trustees shall be stockholders and shall be elected at the annual meeting of the Stockholders, which shall be held at the principal place of business of the Company on the first Saturday after the fourth Wednesday in May of each year. And they shall hold their offices until their successors are qualified. They shall fill by appointment any vacancies in the board. The first board of Trustees shall be Joseph Nickerson, Thomas Nickerson, O. W. Peabody, Henry Strong, Isaac T. Burr, B. P. Cheney, Geo. B. Wilbur, Alden Speare, A. B. Laurie, and they shall hold their office until their successors are elected at the first annual meeting in the year A.D. 1874. They shall appoint a President, Vice President, Secretary and Treasurer, and shall make such by laws as they shall deem best for the government of the Corporation.

First board of
Trustees.

ARTICLE 6. The principal place of business of the Company shall be Granada, in Bent County, Colorado Territory, which may be changed by a vote of the Trustees. The Trustees are also empowered to meet in the City of Boston, State of Massachusetts for the transaction of business of the Company.

Art of Inc. 'C. & N. M.
Places of business.

ARTICLE 7. The Corporation shall have the right to fix the rate of freight and toll for the carrying of freight and passengers, to purchase and own real and personal property, to make all proper contracts for the building and operating of the road, to borrow money, to issue the bonds of the Company, and to secure the same by mortgage or deed of trust upon the property of the Corporation, and to transact any and all business usually pertaining to a railroad company.

Corporate powers.

ARTICLE 8. The Corporation shall have authority to sell or lease its road and all of its property and franchises to any other railroad Company within or out of said territory of Colorado, and to consolidate its road with any other road, either in said territory or in the state of Kansas, and to make such temporary or perpetual running arrangement with such other railroad Companies as may be deemed best. Such sale or perpetual lease or Consolidation may be made by vote of three fourths of the Trustees or by a majority of all the Stockholders.

Further corporate powers.

ARTICLE 9. These articles of incorporation may be altered or amended by a vote of a majority of the Stockholders or by a vote of three fourths of all the Trustees.

Articles, how amended.

WITNESS OUR NAMES this 26th day of June 1873.

Attesting clause.

JOS. NICKERSON.	ALDEN SPEARE.
B. P. CHENEY.	O. W. PEABODY.
I. T. BURR.	J. S. NICKERSON.
CHAS. W. PIERCE.	GEO. B. WILBUR.
THOS. NICKERSON.	A. B. LAURIE.
HENRY STRONG.	

Art. of Inc. C. & N. M. COMMONWEALTH OF MASSACHUSETTS, } ss.
COUNTY OF SUFFOLK,

Acknowledgments. BE IT KNOWN THAT before me, Joseph A. Willard, Clerk of the Superior Court, of the County of Suffolk, in said State, personally appeared, Joseph Nickerson, Isaac T. Burr, Thomas Nickerson, Alden Speare, O. W. Peabody, George B. Wilbur, Benj. P. Cheney, Charles W. Pierce, Henry Strong, Jonathan S. Nickerson, A. B. Laurie, who are personally known to me to be the identical persons whose names are subscribed to the foregoing certificate and articles of incorporation and severally acknowledged the same to be their voluntary act and deed.

WITNESS MY HAND and the seal of said Court this twenty-seventh day of June A.D. 1873.

JOS. A. WILLARD,
Clerk.

[SEAL]

(INDORSED.)

Indorsement of
recording of foregoing
articles.

Articles of Incorporation of Colorado and New Mexico
R.R. Co.

Filed for record July 5th 1873 at 10 o'clock A.M. and
recorded in Book "E" Page 101.

ARTICLES OF INCORPORATION

OF

THE PUEBLO AND SALT LAKE RAILWAY CO.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Sec'y of State.

I Melvin Edwards, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Incorporation of The Pueblo and Salt Lake Railway Company, which was filed in this Office the Thirteenth day of December, A.D. 1873 at 10 o'clock A.M., and admitted to record.

Articles filed
Dec. 13, 1873.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver, this Eleventh day of April, A.D. 1885.

[SEAL]

MELVIN EDWARDS,
Secretary of State.

WHEREAS the undersigned are desirous of becoming a body corporate under and by virtue of the provisions of Chapter XVIII. concerning corporations of the Revised Statutes of Colorado, Now therefore this is to certify as follows,

Proposed
incorporation under
Chap. 18 of Rev. Stats.
of Colorado.

FIRST. The corporate name of said Company shall be THE PUEBLO AND SALT LAKE RAILWAY COMPANY.

Corporate name.

SECOND. That the objects and purposes of said company are to locate, build, construct, manage, operate and maintain a certain railroad and telegraph line to be hereinafter described and to purchase, acquire, improve and dispose of lands or any interest therein, either absolutely or on condition for the purpose of aiding in any manner the construction or maintenance of said railroad and telegraph line; the said railroad as well as said telegraph is described and by route is designated as follows, that is to say: commencing at a point at or near Granada in Bent County, Colorado

Corporate purposes
and authorized line.

Art. of Inc. P. & S. L. Territory in the Arkansas Valley thence westerly and northwesterly, following the general direction of and along said valley or the slopes thereof of the Arkansas River by such route as may be deemed most advantageous and practicable through the Counties of Bent and Pueblo in said Territory to the city of Pueblo in Pueblo County in said Territory thence extending in a westerly and northwesterly direction by way of the Tennessee pass through the Counties of Fremont and Lake in said Territory to the western boundary thereof; thence in a northwesterly direction to Salt Lake City in the Territory of Utah. Said telegraph line as mentioned herein is to be appendant and appurtenant to said railroad, and is to be built constructed, operated and maintained by said railway company at its option or election on and along the line and route of said railroad as hereinbefore specified or as near thereto as may be though [*sic*] as may be thought expedient by said railway company and, that offices for the transaction of all telegraphic business shall be opened and maintained at such points along the line of said railroad as may be deemed expedient.

The termini of said telegraph line shall be the same as the termini of said railroad.

Capital stock. THIRD. The capital stock shall be Three millions of dollars which said capital stock shall be divided into thirty thousand shares of one hundred dollars each.

Term of corporate existence. FOURTH. The term of existence shall be fifty years from the date hereof.

Trustees. FIFTH. The number of trustees of said company shall be nine and Moses Anker, Mark A. Shaffenburg, Wm. A. Orman, Mahlon D. Thatcher, James N. Carlile, George M. Chilcott, Oliver H. P. Baxter, Peter K. Dotson and Jefferson Raynolds are hereby designated trustees of said company and as such trustees are to manage the affairs of the company the first year.

Principal office and line of route. SIXTH. The principal office of said company shall be in the City of Pueblo aforesaid and the operations of said company shall be carried on along the line of the route heretofore designated in the counties heretofore named.

SEVENTH. The trustees of said company shall have power to make such prudential by laws as they shall deem proper for the management and disposition of the stock and business affairs of said company not inconsistent with the laws of this territory, and prescribing the duties of officers, artificers, and servants that may be employed for the appointment of all officers and for carrying on all kinds of business within the objects and purposes of this company.

Art. of Inc. P. & S. L.
Trustees may make
by-laws.

In testimony whereof witness our signatures and seals this eleventh day of December A.D. 1873.

MARK A. SHAFFENBURG [SEAL]
WILLIAM A. ORMAN [SEAL]
MAHLON D. THATCHER [SEAL]
JAMES N. CARLILE [SEAL]
GEORGE M. CHILCOTT [SEAL]
OLIVER H. P. BAXTER [SEAL]
PETER K. DOTSON [SEAL]
JEFFERSON RAYNOLDS [SEAL]

TERRITORY OF COLORADO, } ss.
COUNTY OF PUEBLO, }

Acknowledgments.

Before me, E. C. Holmes, a Notary Public in and for the County and Territory aforesaid personally appeared Mark A. Shaffenburg, William A. Orman, Mahlon D. Thatcher, James N. Carlile, George M. Chilcott, Oliver H. P. Baxter, Peter K. Dotson and Jefferson Raynolds, personally known to me as the persons whose names are subscribed to the above certificate of Incorporation and acknowledged that they signed and sealed the said instruments of writing as their free and voluntary acts for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this Twelfth day of December A.D. 1873.

[SEAL]

E. C. HOLMES,
Notary Public.

(INDORSED.)

Pueblo and Salt Lake Railway Co., filed December 13, 1873, at 10 o'clock A.M. Indorsement of filing.

ARTICLES OF INCORPORATION

OF

THE PUEBLO AND ARKANSAS VALLEY RAIL- ROAD COMPANY (I.).

Proposed
incorporation under
Ch. 18 of Rev. Stats.

WHEREAS, the undersigned are desirous of becoming a body corporate under and by virtue of the provisions of "Chapter XVIII," concerning "Corporations," of the "Revised Statutes of Colorado" and the amendments thereto.

NOW THEREFORE, this is to certify as follows:

Corporate name.

FIRST. The corporate name of said company shall be "The Pueblo and Arkansas Valley Railroad Company."

Corporate purposes
and authorized line.

SECOND. The objects and purposes of said company are to locate, build, construct, manage, operate and maintain certain railroad and telegraph lines to be hereinafter described and to purchase, acquire, improve and dispose of lands or any interests therein, either absolutely or on condition for the purpose of aiding in any manner the construction or maintenance of said railroad and telegraph lines; the said railroad as well as the said telegraph lines are described and by routes are designated as follows, that is to say; commencing at a point at the present western terminus of the Atchison, Topeka and Santa Fe Railroad, in the Arkansas Valley, at or near the eastern boundary of the Territory of Colorado, in the county of Bent, and Territory of Colorado; thence westerly and northwesterly following the general direction of and along said valley or the slopes thereof of the Arkansas River by such route as may be deemed most advantageous and practicable through the Counties of Bent and Pueblo in said Territory, to the City of Pueblo in Pueblo County in the said Territory; thence extending in a westerly and northwesterly direction by way of the Tennessee Pass through the counties of Fremont and Lake in said Territory to

the western boundary thereof; thence in a northwesterly direction to Salt Lake City, in the Territory of Utah; Also a railroad and telegraph line branching off from the route above designated at a convenient and practicable point, and extending therefrom in a westerly and southwesterly direction through the counties of Bent, and Las Animas in Colorado Territory to Santa Fe and Albuquerque in the Territory of New Mexico, and also a railroad and telegraph line extending from the most suitable point on the line last described through the counties of Bent and Las Animas, to Trinidad, in said County of Las Animas and the Territory of Colorado. Said telegraph lines mentioned herein are to be appendant and appurtenant to railroads and are to be built, constructed, operated and maintained by said Pueblo and Arkansas Valley Railroad Company, at its option and election on and along the lines and routes of said railroads as hereinbefore specified or as near thereto as may be thought expedient by said railroad company, and that offices for the transaction of telegraphic business shall be opened and maintained at such points along the line of said railroads as may be deemed expedient. The termini of said telegraphic lines shall be the same as the termini of said railroads.

Art. of Inc.
P. & A. V. (L).

THIRD. The capital stock of said company shall be three millions of dollars, which said capital stock shall be divided into thirty thousand shares of the par value of one hundred (\$100) dollars each.

Capital stock.

FOURTH. The term of the existence of this company shall be fifty years from the filing of this certificate of incorporation.

Term of corporate
existence.

FIFTH. The number of trustees of said company shall be eight, and Mahlon D. Thatcher, Oliver H. P. Baxter, James N. Carlile, Thomas Nickerson, Joseph Nickerson, F. H. Peabody, B. P. Cheney, and Charles L. Perkins are hereby designated trustees of said company and as such trustees are to manage the affairs of the company for the first year.

Trustees.

SIXTH. The principal office and place of business of said company shall be in the city of Pueblo aforesaid, and

Principal office and
place of business.

**Art. of Inc.
P. & A. V. (I.).**

the operations of said company shall be carried on along the lines of the routes heretofore designated in the counties heretofore named.

**Trustees may make
by-laws.**

SEVENTH. The trustees of said company shall have the power to make such prudential by-laws as they shall deem proper for the management and disposition of the stock and business affairs of said company, not inconsistent with the laws of the Territory of Colorado, and prescribing the duties of officers, artificers and servants that may be employed; for the appointment of all officers and for carrying on all kinds of business within the objects and purposes of this company..

Corporate powers.

EIGHTH. This corporation shall have the right to fix the rates of freight and toll for the carrying of freight and passengers, to purchase and own real and personal property to make all proper contracts for the building and operating of the railroads and telegraph lines hereinbefore described; to borrow money, to issue the bonds of the company and to secure the same by mortgage or deed of trust upon the property of the corporation and to transact any and all business usually pertaining to a railroad company.

Attesting clause.

IN TESTIMONY WHEREOF, witness our signatures and seals this eleventh day of January, A.D. 1875.

JOSEPH NICKERSON.	[SEAL]
F. H. PEABODY.	[SEAL]
B. P. CHENEY.	[SEAL]
JAMES N. CARLILE.	[SEAL]
OLIVER H. P. BAXTER.	[SEAL]
MAHLON D. THATCHER.	[SEAL]
THOS. NICKERSON.	[SEAL]
CHAS. L. PERKINS.	[SEAL]

**Acknowledgments of
Carlile and Baxter.**

TERRITORY OF COLORADO, }
PUEBLO COUNTY, } ss.

Before me, Chas. E. Gast, a Notary Public in and for said county in the Territory aforesaid, personally appeared James N. Carlile and Oliver H. P. Baxter, to me personally known as the persons whose names are subscribed

to the above certificate of incorporation, and acknowledged that they signed, and sealed the said instrument of writing as their free and voluntary act for the uses and purposes therein set forth.

Art. of Inc.
P. & A. V. (I.).

Given under my hand and notarial seal this eleventh day of January, A.D. 1875.

CHAS. E. GAST,
Notary Public.

[SEAL]

COMMONWEALTH OF MASSACHUSETTS, }
SUFFOLK, SS. SUPERIOR COURT, }

Acknowledgments of
J. Nickerson,
T. Nickerson, Cheney,
and Peabody.

Before me, Jos. A. Willard, Clerk of Superior Court in and for said county and commonwealth aforesaid, personally appeared Joseph Nickerson, Thos. Nickerson, B. P. Cheney, and F. H. Peabody, to me personally known as the persons whose names are subscribed to the above certificate of incorporation, and acknowledged that they signed and sealed the said instrument of writing as their free and voluntary acts for the uses and purposes therein set forth.

Witness my hand and the seal of said court, this twenty-sixth day of January, A.D. 1875.

JOS. A. WILLARD,
Clerk.

[SEAL]

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } SS.

Acknowledgment of
Perkins.

On this 10th day of Feb. 1875, before me, Horace Andrews, a commissioner of deeds for Colorado Territory, personally appeared Charles L. Perkins, to me known to be one of the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that he had signed, sealed and delivered the same as his act and deed for the uses and purposes therein set forth.

Witness my hand and official seal.

HORACE ANDREWS,
*Commr. for Colorado Territory
in New York.*

[SEAL]

Art of Inc.
P. & A. V. (I.).

TERRITORY OF COLORADO, }
PUEBLO COUNTY, } ss.

Acknowledgment of
Thatcher.

Before me, Chas. E. Gast, a Notary Public in and for said county in the Territory aforesaid, personally appeared Mahlon D. Thatcher, to me personally known as the person whose name is subscribed to the within certificate of incorporation, and acknowledged that he signed and sealed the said instrument of writing as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 27th day of Feb. A.D. 1875.

CHAS. E. GAST,
Notary Public.

[SEAL]

Certificate of
County Clerk of
Pueblo County
of filing and recording
of foregoing Articles
in said County.

STATE OF COLORADO, }
COUNTY OF PUEBLO, } ss.

I, J. S. Stewart, Clerk and recorder in and for said county, in the state aforesaid, do hereby certify the foregoing and annexed to be a true and complete copy of the Articles of Incorporation of the Pueblo and Arkansas Valley Railroad Company as the same were filed in this office on the 22d day of March, A.D. 1875, at 5.25 o'clock P.M. (excepting the certificate of the Secretary of State,) and duly recorded in volume 10 on pages nos. 512, 513, 514, and 515, of said Pueblo County Records.

Witness my hand and official seal at Pueblo, this 24th day of February A.D. 1887.

J. S. STEWART,
County Clerk.

[SEAL]

Certificate of County
Clerk of Bent County
of filing and recording
of foregoing Articles
in said County.

STATE OF COLORADO, }
BENT COUNTY, } ss.

I, John Jay, County Clerk in and for the County of Bent, in the state aforesaid do hereby certify that with the exception of the certificate of the Hon. Secretary of State the foregoing is a true and complete copy of the Articles of Incorporation of the Pueblo and Arkansas Valley Railroad Company, which was filed in this office on the 25th day of

March, A.D. 1875, at 9 o'clock A.M. and duly recorded in Art. of Inc.
P. & A. V. (1.).
Book No. 2, pages No. 145, 146, 147 and 148.

Witness my hand and seal at Las Animas in said County
this 19th day of February A.D. 1887.

[SEAL]

JOHN JAY,
County Clerk.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Sec'y of State.

I, James Rice, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a full, true and complete transcript of the Certificate of Incorporation of the Pueblo and Arkansas Valley Railroad Company, which was filed in this office the twenty-fourth day of March, A.D. 1875, at 10 o'clock A.M. and admitted to record.

Articles filed
March 24, 1875.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the great seal of the State of Colorado, at the City of Denver, this fifteenth day of February, A.D. 1887.

[SEAL]

JAMES RICE,
Secretary of State.

ARTICLES OF CONSOLIDATION
OF
COLORADO AND NEW MEXICO RAILROAD
COMPANY,
THE PUEBLO AND SALT LAKE RAILWAY
COMPANY,
AND
THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY (I.)
INTO
THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY (II.).

**Certificate of
Sec'y of State.**

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

I Melvin Edwards, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Articles of Consolidation and Merger between the Pueblo and Arkansas Valley Railroad Company, The Pueblo and Salt Lake Railway Company, and The Colorado and New Mexico Railroad Company which was filed in this Office the Twenty ninth day of September A.D. 1875 at 2.15 o'clock P.M., and admitted to record.

**Articles filed
Sept. 29, 1875.**

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver, this Eleventh day of April A.D. 1885.

[SEAL]

MELVIN EDWARDS,
Secretary of State.

TO ALL TO WHOM THESE PRESENTS SHALL COME.

Art. of Consol.

P. & A. V. (II.).

Names of consoli-
dating companies.

The Pueblo and Arkansas Valley Railroad Company, a corporation duly created and organized under the laws of the Territory of Colorado, the Pueblo and Salt Lake Railway Company, duly created and existing under and by virtue of the laws of the Territory of Colorado; and the Colorado and New Mexico Railroad Company, a corporation duly formed and organized under the laws of said Territory, send greeting:

Whereas, the said several companies and each and every of them being thereto authorized by law, desire and intend and accordingly have agreed to merge and consolidate their capital stock, franchises, and property, together and thereby severally and collectively to merge and consolidate the capital stock, franchises and property of each and every of them with the capital stock, franchises and property of each and every other of them and subject to all liabilities, charges and responsibilities thereto by law, consequent and appertaining, and

Proposed
consolidation.

Whereas, the said corporation companies are convinced that such consolidation will enable the consolidated company better and more speedily and fully to carry out and accomplish the objects for which the said several corporations were created and organized to wit: the building and completing of a line of railway which shall be continuous and of uniform gauge from the western terminus of the Atchison, Topeka and Santa Fe Railroad at the eastern line of the Territory of Colorado, up the Arkansas Valley to the city of Pueblo, in the Territory of Colorado, with such extensions as may hereafter be deemed expedient and as are authorized by the articles of incorporation of the said several companies or any or either of them.

Purposes of
consolidation.

NOW KNOW YE AND THESE PRESENTS WITNESS. That the said Pueblo and Arkansas Valley Railroad Company designated herein as the party of the first part, the Pueblo and Salt Lake Railway Company designated herein as the party of the second part, and the Colorado and New Mexico Railroad Company, designated herein as the party of the third part, corporations respec-

Agreement to
consolidate.

**Art. of Consol.
P. & A. V. (II.).**

tively created and organized under the laws of the Territory of Colorado, as hereinbefore recited by the several boards of trustees thereof duly convened have in consideration of the mutual agreements, covenants, provisions and grants herein contained, covenanted, contracted and agreed together, and by these presents do covenant contract and agree together to merge and consolidate their respective capital stocks, franchises, grants, immunities, privileges, capacities, properties, and rights of way of every name and nature into one company to be called and known by the corporate name and style of the Pueblo, and Arkansas Valley Railroad Company, which said consolidated company, shall from the date of the filing of these presents (after the due ratification thereof by the stockholders meetings of the said several corporation parties,) in the office of the Secretary of the Territory of Colorado, have and possess all and singular the rights, franchises, powers, immunities, privileges and capacities, which are or have been granted to or conferred upon or possessed, or enjoyed by either of said parties hereto by or under the laws, and enactments of the General Assembly of Colorado Territory, and by or under the acts of the Congress of the United States, and these presents further witness, that the said parties of the first, second and third parts, have agreed upon, and by these presents, do agree upon the following as the terms and conditions of such consolidation, which terms and conditions the said parties of the first, second and third parts, mutually promise, and covenant and agree to observe keep and perform.

Trustees.

ARTICLE I. The persons who shall be trustees of the Pueblo and Arkansas Valley Railroad Company, at the time of such consolidation, shall be the first trustees of said consolidated company, and shall act as such until the next annual election of trustees, and until their successors are duly elected. The committees and agents heretofore appointed by the President of the Pueblo and Arkansas Valley Railroad Company, shall be the committees and agents of the consolidated company with like powers and duties as were conferred and devolved upon them by the

**Committees and
agents.**

said present company. The President, Secretary, Treasurer and Asst. Treasurer of the present Pueblo and Arkansas Valley Railroad Company, shall continue in their respective offices as officers of the consolidated company, until a board of trustees, shall be chosen by the consolidated company.

Art. of Consol.
P. & A. V. (II.).
Officers.

ARTICLE 2. The first regular annual meeting of the stockholders of said consolidated company, shall be held the second Monday in May A.D. 1876, and thereafter as fixed by the by-laws of said consolidated company. Special meetings may be called at any time by a majority of the Board of Trustees. The Board of Trustees of said consolidated company may at their first meeting appoint all necessary officers, and adopt such by-laws as they see fit, and may alter the same as they shall from time to time think proper, and until such by-laws are adopted by the consolidated company, the present by-laws of the party of the first part shall be and remain in full force and effect as the by-laws of the consolidated company.

Annual meeting of
stockholders.

Special meetings.

Trustees may appoint
officers and adopt and
alter by-laws.

ARTICLE 3. The corporate seal of the consolidated company shall be that of the present Pueblo and Arkansas Valley Railroad Company, until otherwise ordered.

Corporate seal.

ARTICLE 4. From and after the consummation of this agreement and act of consolidation or merger by the corporations, parties hereto, and filing the same duly certified in the office of the Secretary of Colorado Territory, the share or stockholders of the corporation parties hereto shall be share or stockholders respectively in the corporation hereby created and established and shall be entitled to and hold therein a number of shares equal to the aggregate number held by them respectively in each and all of the corporations hereby merged and consolidated and shall thereupon be so registered in the books of the corporation hereby created and established, and they shall also be entitled upon presentation and surrender for cancellation of the certificates of shares so holden by them in either of the aforesaid corporations merged, to have issued to them respectively certificates for an equal number of shares in the consolidated company.

Stockholders of
consolidating
companies to receive
stock in new company
share for share.

**Art of Consol.
P. & A. V. (IL).
Capital stock.**

ARTICLE 5. The capital stock of the company consolidated shall be three millions of dollars consisting of thirty thousand shares of the par value of one hundred dollars each.

**Outstanding
obligations and
liabilities assumed.**

ARTICLE 6. Each and every existing Bond, lease, contract, agreement, obligation or liability heretofore entered into assumed incurred, or agreed to by either of the parties hereto whether between themselves or with others shall be sacredly discharged, fulfilled and observed by the consolidated company, and each and every of the acts, assumptions, proceedings, resolutions and doings of the respective Boards of trustees of the said companies, and of their authorized agents, officers and committees, shall be and the same are hereby ratified, confirmed and made valid, and shall be observed by the consolidated company.

**Passenger and freight
depots at Pueblo.**

ARTICLE 7. The consolidated company, shall on the line of its road construct and maintain in the city of Pueblo, Colorado Territory, within one mile of the new court house in said city, suitable and commodious passenger and freight depot or depots upon a location that shall be selected by the present members of the board of trustees of the Pueblo and Salt Lake Railway Company, or a majority of them, such location to be made prior to October 21st, A.D. 1875. Said depot or depots to be creditable brick structures.

**Term of corporate
existence.**

ARTICLE 8. The term of the corporate existence of the Pueblo and Arkansas Valley Railroad Company consolidated, shall be fifty years from the date of the filing of these articles.

**Principal office and
place of business.**

ARTICLE 9. The principal office and place of business of said consolidated company shall be in the city of Pueblo, in the Territory of Colorado, and the operations of said company shall be carried on along the line of the route designated in the respective articles of incorporation of the parties of the first, second and third part.

**Trustees may make
by-laws.**

ARTICLE 10. The trustees of said consolidated company shall have the power to make such prudential by-laws as they shall deem proper for the management and disposition of the stock and business affairs of said company not incon-

sistent with the laws of the territory of Colorado, and prescribing the duties of officers artificers and servants that may be employed: for the appointment of all officers and carrying on all kinds of business within the objects and purposes of said company.

Art. of Consol.
P & A. V. (II.).

ARTICLE 11. All and singular the rights, privileges, and franchises of each of said corporations parties hereto and all property, real, personal and mixed and all debts, due on whatever accounts, as well as of stock subscriptions, and other things in action belonging to each and every of said corporations, parties hereto, shall be taken and deemed transferred to, and vested in the corporation hereby established without other or further act or deed than these presents, and all property, rights of way, and all and every other interest, shall be as effectually the property of this new corporation, as they were of the former corporations parties to these presents, and all rights of creditors, and all liens upon the property created by either of said corporations, shall be preserved unimpaired notwithstanding said merger and consolidation, and all debts, liabilities and duties of either of said corporations so merged shall thenceforth attach to the said new corporation and be in force against it to the same extent and in the same manner as if said debts, liabilities and duties had been incurred or contracted by it. And these presents further witness, that the said party of the first part in consideration of the premises, and of the sum of one dollar duly paid by the said party of the second part the receipt whereof is hereby acknowledged, doth hereby grant, convey, assign, set over, and out unto said consolidated company, for the purposes of such consolidation, all the railroads of the said party of the first part, and all the equipments, and materials used or acquired therefor, and the rights, privileges, franchises, powers, and all the lands and property moneys and effects, real personal and mixed, and all rights of action and things of every name and nature now held or owned by the said party of the first part, or in or to which the said party of the first part hath any right title interest or claim either in law or equity and also all the lands and rights to

Powers, rights and
liabilities of new
company.

P. & A. V. (I.) conveys
all its railroads,
franchises and
property to the new
company.

Art. of Consol.
P. & A. V. (II.).

lands to which the said party of the first part is entitled by through or under any and all laws and enactments which have been or may hereafter be passed by the Congress of the United States.

P. & S. L. conveys all
its railroad franchises
and property to the
new company.

AND THE SAID PARTY OF THE SECOND PART in consideration of the premises, and of the sum of one dollar to it in hand paid by the party of the first part, the receipt whereof is hereby acknowledged, doth hereby grant, convey, assign set over to and vest in said consolidated company for the purposes of such consolidation all the railroad grade of the said party of the second part, and all the equipments, implements and materials used or acquired therefor, and all the rights, privileges, immunities, franchises, powers, and all the lands, easements and rights to land, property money and effects, real, personal and mixed, and all the rights of action and things of every name or nature now held or owned by the said party of the second part or in or to which the said party of the second part hath any right, title, interest or claim either in law or equity, also all the lands, easements and rights to lands to which the said second party is or may be entitled by, through, or under any and all laws and enactments which have been or may hereafter be passed by the Congress of the United States.

C. & N. M. conveys all
its railroads, property
and franchises to the
new company.

AND THE SAID PARTY OF THE THIRD PART in consideration of the premises, and of the sum of one dollar to it in hand by the said second party, the receipt whereof is hereby acknowledged, doth hereby grant, convey, set over and out unto said consolidated company for the purposes of such consolidation, all the railroads of the said third party, and all the equipments, implements and materials used or acquired therefor, and the rights, privileges franchises, powers, and all the lands easements, rights to lands and property, money and effects, real, personal and mixed, and all rights of action and things of every name and nature now held or owned by the said party of the third part or in or to which the said party of the third part hath any right, title, interest or claim, either in law or equity and also all the lands and rights to lands to which the said third party is or may be entitled by, through or under any and all laws

and enactments which have been or may hereafter be passed by the Congress of the United States.

Art. of Consol.
P. & A. V. (II.).

AND THE SAID PARTIES OF THE FIRST, SECOND AND THIRD PARTS, to effectuate the consolidation aforesaid do mutually agree and declare that the said consolidation shall take effect upon the due execution of the present articles and as soon, and not before the same shall be filed in the office of the Secretary of the Territory of Colorado.

Consolidation
to take effect on
execution and filing
of Articles.

And the Board of Trustees of said consolidated company shall after the due ratification of these presents have full powers to carry the said consolidation into effect by all necessary and proper acts, and things for that purpose according to the terms and conditions herein set forth.

Trustees authorized
to carry consolidation
into effect.

IN TESTIMONY WHEREOF, the Boards of Trustees of the several corporations, parties hereto have caused these presents to be signed in the names thereof by their respective Presidents and their several corporate seals to be affixed thereto this 19th day of April A.D. 1875.

Attesting clause.

PUEBLO AND ARKANSAS VALLEY RAILROAD CO.

By JOSEPH NICKERSON,

[SEAL]

President.

Attest:

M. D. THATCHER,

Secretary.

PUEBLO AND SALT LAKE RAILWAY COMPANY.

By M. D. THATCHER,

[SEAL]

President.

Attest:

CHARLES E. GAST,

Secretary.

THE COLORADO AND NEW MEXICO RAILROAD CO.

By JOSEPH NICKERSON,

[SEAL]

President.

Attest:

THOS. NICKERSON,

Secretary.

Art. of Consol.
P. & A. V. (II.).

Certificate of
Sec'y of P. & A. V. (I.)
as to ratification of
foregoing Articles by
stockholders of that
company.

I, M. D. Thatcher, Secretary of the Pueblo and Arkansas Valley Railroad Company, do hereby certify that a meeting of the stockholders of said company was duly called and held at the office of the company, in the City of Pueblo, Pueblo County, Colorado Territory on the twentieth day of May, A.D. 1875, for the purpose of taking into consideration the annexed foregoing contract and agreement, in pursuance of due notice for the period of thirty days, of the time and place of holding said meeting, and the object thereof, given by printed notices addressed to each of the stockholders of said company, and also by the like notice duly published in the *Daily Colorado Chieftain*, a newspaper printed in said City of Pueblo, at which meeting of stockholders said agreement was read and considered by them; that said meeting, without taking any definite action, adjourned until 3 o'clock P.M. of the following day, to-wit: Friday, May 21st., when, at the office of the company aforesaid, the consideration of said agreement and contract was resumed, and after some discussion, the meeting adjourned to convene at the same place at 8 o'clock, P.M. on the 31st day of May, A.D. 1875, when after further consideration of said contract and agreement the meeting again adjourned to convene at the same place at 4 o'clock, P.M. on the 28th day of June, A.D. 1875, when the consideration of said contract and agreement was resumed, and a vote taken on the question of the adoption of the same according to law, which vote resulted as follows, to-wit: Nine thousand, six hundred and four, (9604) votes for the adoption of said contract and agreement of consolidation, and no votes were cast for the rejection of the same, and that the total amount of stock held by all the stockholders is ten thousand five hundred and sixty-four (10,564) shares, each share entitling the holder thereof to one vote: which total number (9604) of votes given, or ballots cast for the adoption of said agreement of consolidation is a majority of over two-thirds of all the votes of all the stockholders of said company: and thereupon said contract and agreement was declared duly adopted, approved and confirmed, and the companies therein named consolidated.

WITNESS MY HAND and the seal of said company, at the City of Pueblo, Colorado Territory, this Ninth day of July, A.D. 1875.

Art. of Consol.
P. & A. V. (II.).

M. D. THATCHER,

[SEAL]

Secretary.

I, Charles E. Gast, Secretary of the Pueblo and Salt Lake Railway Company, do hereby certify that a meeting of the stockholders of said company was duly called and held at the office of the company, in the City of Pueblo, in Pueblo County, Colorado Territory, on the 20th day of May, A.D. 1875, at 3 o'clock P.M. of said day for the purpose of taking into consideration the annexed foregoing contract and agreement, in pursuance of due notice, for the period of thirty days of the time and place of holding said meeting, and the object thereof, given by printed notices addressed to each of the stockholders of said company, and also by the like notice duly published in the *Daily Colorado Chieftain*, a newspaper printed in said City of Pueblo, at which meeting of stockholders said agreement was read and considered by them; that said meeting after some discussion adjourned to convene at the same place at 2 o'clock P.M. of the following day, to-wit: Friday, when the consideration of said agreement and contract was resumed and after some discussion the meeting adjourned to convene at the same place at 7 and one-half o'clock on the 31st day of May, A.D. 1875, when without taking definite action upon said contract and agreement, after some discussion the meeting again adjourned, to convene at the same place at 4 o'clock P.M. on the 28th day of June, A.D. 1875, when the consideration of said contract was again resumed, and a vote taken on the question of the adoption of the same, according to law, which vote resulted as follows, to-wit; Eleven thousand five hundred and thirty four (11,534) votes for the adoption of said contract and agreement of consolidation, and no votes were cast for the rejection of the same, and that the total amount of the stock held by all the stockholders is eleven thousand,

Certificate of
Sec'y of P. & S. L.
as to ratification of
foregoing Articles by
stockholders of that
company.

Art. of Consol.
P. & A. V. (II.).

five hundred and forty-five shares each share entitling the holder thereof to one vote; which total number (11,534) of votes given or ballots cast for the adoption of said agreement of consolidation is a majority of over two-thirds of all the votes of all the stockholders of said company: and thereupon said contract and agreement was declared adopted, approved and confirmed, and the companies therein named consolidated.

WITNESS MY HAND and the seal of said company at the City of Pueblo, Colorado Territory, this Ninth day of July, A.D. 1875.

CHAS. E. GAST,
Secretary.

[SEAL]

Certificate of
Sec'y of C. & N. M.
as to ratification of
foregoing Articles by
stockholders of that
company.

I, Thomas Nickerson, Secretary of the Colorado and New Mexico Railroad Company do hereby certify that a meeting of the Stockholders of the said Company was duly called and held at the office of the Company at the town of Granada in Bent County, Colorado Territory, on the 29th day of May, A.D. 1875 at 10 o'clock A.M. of said day for the purpose of taking into consideration the annexed foregoing contract and agreement in pursuance of due notice for the period of 30 days of the time and place of said meeting and the object thereof given by printed notices addressed to each of the stockholders of said company, and also by like notice duly published in the *Las Animas, Col., Leader*, a newspaper printed in the town of West Las Animas, Bent County, Colorado, at which meeting of stockholders said agreement was read and considered by them; that said meeting after some discussion adjourned to convene at the same place at 10 o'clock A.M. July 3, 1875, at which time the consideration of said contract was again resumed and a vote taken on the adoption of same according to law, which vote resulted as follows, to-wit: 3774 for the adoption of said contract and agreement of consolidation and no votes were cast for the rejection of the same, and the total amount of the stock held by all the stockholders is Four thousand (4000) shares, each share entitling the holder

thereof to one vote, which total number Three thousand, seven hundred and seventy-four (3774) of votes given and ballots cast for the adoption of said agreement of consolidation is a majority of over two-thirds of all the votes of all the stockholders of said Company and thereupon said contract and agreement was declared adopted, and confirmed and the companies therein named consolidated.

Art. of Consol.
P. & A. V. (II.).

WITNESS MY HAND and the seal of said company at the town of Granada, Colorado Territory, this third day of July 1875.

THOMAS NICKERSON,

[SEAL]

Secretary.

(INDORSED.)

Articles of Consolidation of the Colorado and New Mexico Railroad Co. The Pueblo and Salt Lake Railroad Company, and the Pueblo and Arkansas Valley Railroad Co.

Indorsement of filing
and recording of
foregoing Articles.

Filed in the office of the Sec'y of the Territory, Sept. 29th, 1875, at 2.15 P.M. and recorded in book F, Page 89.

JOHN TAFFE,

Secretary.

AMENDMENT TO CHARTER
OF
THE PUEBLO AND ARKANSAS VALLEY
R.R. CO. (II.)

OFFICE OF THE SECRETARY OF STATE.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

I, James Rice, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Amendments to Articles of Incorporation of The Pueblo and Arkansas Valley Railroad Company, which was filed in this Office the thirtieth day of July A.D. 1878 at 9.30 o'clock A.M. and admitted to record.

Articles filed
July 30, 1878.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this twenty-seventh day of February A.D. 1890.

[SEAL]

JAMES RICE,
Secretary of State.

BOSTON, MASS., July 10th, 1878.

Certified copy of
record of proceedings
of Annual Meeting
of Stockholders of
P. & A. V. (II.)
July 10, 1878.

THIS IS TO CERTIFY, that an adjourned annual meeting of the Stockholders of the Pueblo and Arkansas Valley Railroad Company was held at the office of the Company in the City of Pueblo, State of Colorado on Wednesday, July 10th, 1878.

That the meeting convened at 4 o'clock P.M. pursuant to a resolution of the Stockholders passed at the regular annual meeting held on May 11th, 1878 adjourning the said meeting to the day aforesaid. That among other proceedings the following were had, and done and entered of record.

Stock represented.

Upon a call of the Stockholders it was found that,

Twenty-eight Thousand eight hundred and six, (28806) shares were represented in person or by proxy.

Amendment
to Charter
P. & A. V. (II.).

The following was then submitted for the consideration of the meeting.

Whereas, the interests of the Company require additional corporate authority to construct branches from its main line of road than what is already possessed under its present Articles of Incorporation and for the purpose also of designating more particularly its said main line of road.

Resolution adopting
proposed Amendment
submitted to the
meeting.

BE IT RESOLVED, that the present Articles of Incorporation of the Company so far as they describe and set forth the objects and purposes of the Company to locate, build, construct, manage, operate and maintain certain railroads and Telegraph lines, be amended so as to describe the said railroads and Telegraph lines and the particular routes thereof, as follows, that is to say:

MAIN LINE commencing at a point at the present Western terminus of the Atchison, Topeka and Santa Fe Railroad in the Arkansas Valley at or near the eastern boundary of the State of Colorado, thence westerly and northwesterly following the general direction of and along said Valley of the Arkansas River or the slopes thereof, through the Counties of Bent and Pueblo, to the City of Pueblo, in said State, thence continuing along the Valley of the said Arkansas River to Canon City, in the County of Fremont in said state, thence in a westerly direction along said Arkansas River and the tributaries thereof to Pleasant Valley and still continuing along the Valley of the said Arkansas River and the slopes thereof through the County of Lake to Tennessee Pass, thence across said Tennessee Pass by such route as may be determined upon after a survey thereof to the western boundary of the State of Colorado through Park and Summit Counties.

I. A branch from the said main line extending from the most suitable point thereon, east of the City of Pueblo, and extending in a westerly and southwesterly direction through the Counties of Bent and Las Animas to Trinidad and thence in a southerly direction to the southern boundary of the State of Colorado, and to Santa Fe and Albuquerque in the Territory of New Mexico.

Amendment
to Charter
P. & A. V. (II.).

II. A branch having its initial point on the said main line between the City of Pueblo and Canon City at or near the confluence of the Arkansas River and Oak Creek, thence up the Valley of Oak Creek and the slopes and tributaries thereof, to the head waters of said creek through the Counties of Fremont and Custer.

III. A branch having its initial point on the said main line at or near the mouth of California Gulch and extending up said Gulch through the Towns of Malta and Leadville to Oro City in Lake County.

IV. Also a branch having its initial point on the said main line at or near the mouth of the South Arkansas River, in Lake County, thence along the Valley of the South Arkansas River and the slopes thereof to a point near the mouth of Poncha Creek, thence up the Canon of said Poncha Creek to a point at or near the mouth of the South Fork of said Poncha Creek, thence along the Valleys of said Poncha Creek and the tributaries and slopes thereof to the summit of Poncha Pass, thence continuing in a southerly direction through the San Louis Valley to Saguache and Del Norte on the Rio Grande River, thence up the Valley of the Rio Grande through Wagon Wheel Gap and Antelope Park to the head waters of the said Rio Grande River, thence through Stony and Cunningham Gulches, or by any other route deemed more practicable upon survey, into Baker's Park, thence down the Valley of the Animas River and along the slopes thereof to its confluence with the San Juan River, thence in a westerly direction down the Valley of the San Juan River to the western boundary of the State of Colorado, the said branch extending through the Counties of Lake, Saguache, Rio Grande, Hinsdale, La Plata and San Juan.

V. Also a branch having its initial point in the Valley of Poncha Creek about five (5) miles south of its confluence with the South Arkansas River, thence through Lake and Gunnison Counties along the Valley of Poncha Creek and the slopes and tributaries thereof to Marshall's Pass, at the summit of the main Continental Divide thence down the Valley of Tomichi Creek, the slopes and tributary Valleys

thereof, into the Valley of the Gunnison River, and along the Valley of said River through the Grand Canon thereof to the junction of the Gunnison and Cebolla Canon's thence up the Cebolla Canon and the Valley and the slopes of the Cebolla River to the divide between the Cebolla and Uncompahgre Rivers, thence down the Valley of Cedar Creek, a tributary of the Uncompahgre River to the Valley of the Uncompahgre, thence along the Valley of Uncompahgre, and the slopes thereof, to the Valley of the Gunnison River thence along the Valleys of the Gunnison and Grand Rivers, or the tributary Valleys and slopes thereof to the western boundary of the State of Colorado.

Amendment
to Charter
P. & A. V. (II.).

VI. A branch having its initial point at the junction of the Gunnison and the Lake Fork Canons in Gunnison County, thence up the valley or tributary valleys of the Lake Fork of the Gunnison to Lake City, in Hinsdale County.

VII. A branch having its initial point at the most practicable point in the Valley of Cedar Creek, a tributary of the Uncompahgre in Gunnison County, thence along the Valley of the Uncompahgre and the slopes and tributary valleys thereof to Ouray in Ouray County.

VIII. A branch having its initial point at the most practicable point in Antelope Park, near the mouth of Clear Creek thence up the Valley of Clear Creek and the slopes thereof to the summit of the main Divide, thence by the most practicable route to Lake City.

IX. A branch having its initial point at or near Saguache in Saguache County, thence up the Valley of Saguache Creek to the slopes and tributaries thereof to Cochetopa Pass on the summit of the main Divide, thence down Cochetopa Creek, the tributary valleys and the slopes thereof to the Valley of Tomichi Creek.

X. A branch having its initial point at or near the City of Pueblo, thence through Pueblo and El Paso Counties, by the most practicable route along the Fountain Que Bouille to Colorado Springs thence through El Paso County by the valley of the east fork of the Fountain Que Bouille to the divide between the waters of the Arkansas

Amendment
to Charter
P. & A. V. (II.).

and Platte Rivers, thence by the most practicable route along the tributary valleys of the Platte River and the slopes thereof to Denver in Arapahoe County, thence by the most practicable route, in a northwesterly direction to a point near the outlet of Ralston Creek from the mountains, in the County of Jefferson, thence by the most practicable and feasible route, to the top of Guy Hill near where the old stage road crosses the same, thence on the southerly slope of Guy Gulch to a point at or above "Bartons Ranche," thence crossing said Gulch and occupying the southeasterly slope of the mountains, which lie between Guy Gulch and Clear Creek to a point known as Robinson's Summit, thence along the southerly slope of the Robinson Mountain, by the most practicable and feasible route to Lake's Ranche in Gilpin County, thence along the northerly slope of the mountain over the most practicable and feasible route to a crossing of Smith's Creek or Gulch, near the forks of said creek or Gulch thence on the southerly slope of the mountain to the City of Black Hawk, in said Gilpin County, thence by the most practicable and feasible route to Central City, in said County of Gilpin, thence running easterly upon the north slope of the mountain lying between Gregory and Lake Gulches and crossing said mountain east of "Bobtail Hill," thence deflecting westward by the most practicable and feasible route, passing at or near the Consolidated Ditch Lake, at the head of said Lake Gulch, thence in a westerly direction on the most practicable and feasible route through Missouri City into the Valley of Russell Gulch to the summit of the mountain at or near the head of Davenport Gulch, at the north end of Bellevue Mountain on the line of Gilpin and Clear Creek Counties, thence bearing northwesterly by the most practicable and feasible route upon the southerly slope of the mountain which drains into Fall River, in Clear Creek County to a suitable crossing of said Fall River at or above Hamlin Creek, thence crossing the ridge dividing the drainage of Fall River from South Clear Creek, by the most practicable and feasible route to a point on said South Clear Creek at or below the junction of the North

and South branches of said Creek; thence up the Valley of the south fork of said Creek to the Town of Georgetown in said Clear Creek County, Colorado.

Amendment
to Charter
P. & A. V. (II.).

RESOLVED: That the President and Secretary be and are authorized and directed to file the necessary certificate hereof as provided by Section 112 of an act entitled "An Act to provide for the formation of Corporations," approved March 14th, 1877.

Resolution
authorizing filing of
necessary certificate.

The resolutions were seconded and a vote taken upon the same by ballot, resulting in Twenty three thousand eight hundred and six (23806) shares being voted in favor and Five thousand (5000) shares against the resolutions.

Stock vote on
resolutions.

The Resolutions were thereupon declared adopted by more than two-thirds (2-3s) in value of the entire Capital Stock of the Company.

Resolutions declared
adopted.

This Certificate is filed in accordance with Section 112 of An Act of the Colorado Legislature entitled "An Act to provide for the formation of Corporations" Approved March 14th, 1877.

This certificate filed
under Sec. 112 of Act
of March 14, 1877.

PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

By JOS. NICKERSON,

[SEAL]

President.

Attest:

M. D. THATCHER, *Secretary.*

STATE OF MASSACHUSETTS, }
CITY OF BOSTON, SUFFOLK COUNTY, } ss.

Affidavit as to truth of
facts set forth in
foregoing certificate.

Be it remembered that on this nineteenth day of July A.D. 1878 before me the undersigned, a Commissioner of the State of Colorado, residing in Boston, duly commissioned and qualified to take affidavits, acknowledgment of Deeds etc., to be used or recorded in said State, personally appeared Joseph Nickerson, President of the Pueblo and Arkansas Valley Railroad Company, who being first duly sworn, did depose and say, that the facts set forth in the foregoing Certificate are true and correct.

Given under my hand and official seal this 19th day of July A.D. 1878.

SAMUEL JENNISON,

[SEAL]

Commissioner for Colorado, in Boston.

ARTICLES OF INCORPORATION

OF

THE CANON CITY AND SAN JUAN R'Y CO.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Articles filed
Feb. 19, 1877.

I, Melvin Edwards, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Incorporation of The Canon City and San Juan Railway Company, which was filed in this Office the Nineteenth day of February A.D. 1877 at 9.30 o'clock A.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver, this Eleventh day of April A.D. 1885.

MELVIN EDWARDS,

[SEAL]

Secretary of State.

Names of
incorporators.

KNOW ALL MEN BY THESE PRESENTS, that the undersigned Ebenezer T. Alling, John Locke and M. N. Megrue of Canon City, Fremont County, Colorado, have associated themselves together for the purpose of forming a corporate body under and by virtue of the provisions of the General Incorporation Laws of the State of Colorado, the same being contained in Chapter Eighteen (18) of the Revised Statutes of the Territory (now State) of Colorado, approved January 10th 1868 and the acts amendatory thereto and to carry on the business of a railroad company under the provisions granted by the laws aforesaid; for the specific purposes hereinafter set forth:

Proposed
incorporation under
Ch. 18 of Rev. Stats.

Corporate name.

I. The name of the company shall be "The Canon City and San Juan Railway Company."

II. The objects and purposes of said company are to construct, improve and maintain a railroad to carry passengers and freight between Canon City in the County of Fremont and the point known as the South Arkansas Post Office in the County of Lake in the said State of Colorado, commencing at the company's depot site in Canon City to be hereafter selected; thence up the valley of the Arkansas River; through the Grand Canon thereof; thence by the most practicable route, following the Arkansas River to the point known as the South Arkansas Post Office, in the County of Lake aforesaid; with full power and authority to buy lands and tenements and to receive the same by gift or demise, for the successful, convenient and profitable running of the said railroad and for depots, side tracks and work shops and for any and all other purposes that may be desirable or profitable with full power to convey alien and encumber the same in whole or in part and to sell the stock of the company.

Art. of Inc. C. C. & S. J.
Corporate purposes
and authorized line.

III. The termini of said railroad shall be Canon City in said County of Fremont and the point known as the South Arkansas Post Office in the said County of Lake in the State of Colorado.

Termini.

IV. The Capital Stock of said company shall be One Hundred Thousand Dollars, to be divided into One Thousand Shares of One Hundred Dollars each.

Capital stock.

V. The principal place of business of said company shall be Canon City in the said County of Fremont.

Principal place of
business.

VI. The number of Trustees of said company who shall manage the business concerns of said company for the first year shall be nine (9) and shall consist of the following named persons, to-wit: Ebenezer T. Alling, James Clelland, Henry R. Holbrook, Benjamin F. Rockafellow, John Locke, M. N. Megrue and William F. Bailey, Fred A. Reynolds, Sam P. Dale.

Trustees.

VII. The officers of said company shall consist of a President, Secretary and Treasurer and until a regular election is held as provided by law, Ebenezer T. Alling shall be President, Benjamin F. Rockafellow shall be Secretary and James Clelland shall be Treasurer.

Officers.

Art. of Inc. C. C. & S. J. VIII. The term of existence of said company shall be
Term of corporate twenty (20) years.
existence.

Trustees may make IX. The Trustees shall have the power to make such by-
by-laws. laws and regulations from time to time, as in their judgment shall be advisable for the successful management of the affairs of the said company.

Corporate seal. X. An impression of the seal adopted by the said company as its corporate seal is hereto attached. [*Here is inserted a copy of the corporate seal.*]

Attesting clause. IN WITNESS WHEREOF, we, the undersigned, have hereunto set our hands and seals, this 15th day of February 1877.

EBENEZER T. ALLING [SEAL]
 JOHN LOCKE [SEAL]
 M. N. MEGRUE [SEAL]

Acknowledgments. STATE OF COLORADO, }
 COUNTY OF FREMONT, } ss.

I, John Wilson a County Clerk in and for said County and State, do hereby certify that Ebenezer T. Alling, John Locke, and M. N. Megrue, who are known to me to be the persons whose names are subscribed to the foregoing Certificate of Incorporation, personally appeared before me and acknowledged that they signed and sealed the said instrument of writing as their free act and deed for the uses and purposes therein expressed.

Given under my hand and official seal this 15th day of February 1877.

[SEAL] JOHN WILSON,
 County Clerk.

(INDORSED.)

Indorsement of filing Canon City and San Juan R.R. Co. Filed in Sec'y's
and recording of the Office this 19th day of February 1877 at 9.30 A.M. and
foregoing Articles. recorded in Book "A" Page 113.

WM. M. CLARK,
 Secretary of State.
 B.

AGREEMENT

FOR CONSOLIDATION BETWEEN

**THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY (II.)**

AND THE

CANON CITY AND SAN JUAN RAILWAY CO.

[This Agreement was filed with the Secretary of State at the same time with the Articles of Consolidation between the said Companies which are printed on p. 44.]

Whereas, The Pueblo and Arkansas Valley Railroad Company (hereafter styled the party of the first part), and The Canon City and San Juan Railway Company, (hereafter styled the party of the second part), both corporations organized, created and existing under and by virtue of the laws of the State of Colorado, being thereto duly authorized by law, desire to merge and consolidate their capital stock, franchises, and properties together, and thereby severally and collectively to merge and consolidate the capital stock, franchises, and property of each of them with the capital stock, franchises and property of the other and into one consolidated corporation, subject to all liabilities, charges and responsibilities thereto by law consequent and appertaining; and

**Names of the
Companies proposing
to consolidate.**

Whereas, at the adjourned annual meeting of the stockholders of the said Pueblo and Arkansas Valley Railroad Company, held on the tenth (10th) day of July, 1878, among other proceedings the following resolution was adopted and entered of record:

**Meeting of
Stockholders of
P. & A. V. (II.)
July 10, 1878.**

"RESOLVED, That the Secretary of the Company is hereby directed to call a special meeting of the stockholders of the Company to be held at Pueblo on Monday, September 2nd, 1878, at 4 o'clock P.M. to consider at that time and vote upon a proposition of consolidation of the Canon City and San Juan Railway Company with this Company, to be jointly submitted by the Directors of the Canon City and San Juan Railway Company and the Executive

**Resolution directing
call of special Meeting
to consider
proposition of
consolidation.**

**Agreement for
consolidation
between P. & A. V.
(II.) and C. C. & S. J.**

Committee of the Board of Directors of this Company, provided they can before that time agree upon the terms of the said proposed consolidation, and for the transaction of such further business as may properly be brought before the meeting."

**Directors' Meeting
C. C. & S. J.
July 27, 1878.**

And further, at a meeting of the Board of Directors of the Canon City and San Juan Railway Company, held on the twenty-seventh (27) day of July, 1878, the following was adopted:

**Resolution appointing
Committee to confer
with Committee of
P. & A. V. (II.) and
prepare Articles of
Consolidation.**

"RESOLVED, That the President, Secretary and Treasurer of this company be and are hereby appointed a Committee to confer with the Executive Committee of the Pueblo and Arkansas Valley Railroad Company, and to prepare jointly with them, articles consolidating the two companies, and that the Secretary is hereby authorized and directed to call a special meeting of the stockholders of this company, to be held Tuesday, September 3rd, 1878, to consider at that time and vote upon the said articles of consolidation," and

**Terms of
consolidation agreed
upon and articles
prepared.**

Whereas, the said party of the first part, by its Executive Committee aforesaid, and the said party of the second part by its President, Secretary and Treasurer aforesaid, have agreed upon the terms and conditions hereinafter set forth as the terms and conditions of such consolidation, and have prepared the following articles to be submitted for the approval of the stockholders of the respective parties hereto in interest, in person or by proxy, at meetings to be held by them respectively, and specially called for the purpose aforesaid:

**Agreement to
consolidate.**

NOW THEREFORE THIS AGREEMENT WITNESSETH:

That in consideration of the mutual agreements, covenants, provisions and grants herein contained, the said parties of the first and second parts do by these presents merge, combine and consolidate their respective capital stocks, franchises, grants, immunities, privileges, capacities, properties and rights of way of every name and nature into one consolidated Company, to be called and known by the corporate name and style of "The Pueblo and Arkansas Valley Railroad Company," which said consolidated company shall from the date of the filing of these presents

(after due ratification thereof by the stockholders' meetings of the several corporation parties), in the office of the Secretary of the State of Colorado, have and possess all and singular the rights, franchises, powers, immunities, privileges and capacities which are or have been granted to, or conferred upon, or possessed, or enjoyed by either of the said parties hereto, by or under the laws of the State of Colorado or the United States of America.

Agreement for
consolidation
between P. & A. V.
(11.) and C. C. & S. J.

AND THIS AGREEMENT FURTHER WITNESSETH:

That the said parties of the first and second parts have agreed upon and by these presents do agree upon and prescribe the following as the terms and conditions of such consolidation; which terms and conditions provided the same become operative by the approval of the stockholders as aforesaid, the said parties of the first and second parts mutually covenant, promise and agree to observe, keep and perform:

Agreement upon
terms and conditions
and Articles of
Consolidation.

[Here are inserted in the original instrument the terms of consolidation, consisting of eleven articles, which are incorporated in the Articles of Consolidation, and for that reason are omitted here. They will be found printed on pages 45-51.]

AND THESE PRESENTS FURTHER WITNESS that each of the corporation parties hereto in consideration of the premises and of the sum of one dollar (\$1), duly paid, the receipt whereof is hereby acknowledged, doth hereby grant, convey, assign and set over unto said consolidated company for the purposes of such consolidation all the railroads and telegraph lines and all the equipments and materials used and acquired therefor and the rights, privileges and franchises, powers, and all the lands and property, money and effects, real, personal and mixed, and all rights of action and things of every name and nature now held or owned by the said corporation parties hereto, or either of them or to which either of them hath any right, title, interest or claim either in law or equity.

Each of the
Companies about to
consolidate conveys
to the consolidated
Company all its
railroads, franchises
and property.

And the Board of Directors of said consolidated company shall after the due ratification and approval of these presents, have full power to carry the said consolidation into effect by all necessary or proper acts and things for that

Board of Directors of
Consolidated Co. to
have power to carry
consolidation into
effect.

Agreement for
consolidation
between P. & A. V.
(II.) and C. C. & S. J.

purpose, according to the terms and conditions herein set forth; and to that end, are hereby authorized and directed to prepare for execution, a proper certificate of incorporation conforming to the terms and conditions foregoing, and file the same according to law.

Attesting clause.

IN TESTIMONY WHEREOF, the party of the first part by its Executive Committee and the party of the second part, by its President, Secretary and Treasurer, thereunto duly authorized, have caused their respective common and corporate seals to be hereunto affixed, and the same to be attested this Thirty-First day of August, A.D. 1878.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

By F. H. PEABODY, [SEAL]
I. T. BURR, [SEAL]
JOS. NICKERSON, [SEAL]
THOS. NICKERSON, [SEAL]
B. P. CHENEY, [SEAL]
[SEAL] *Executive Committee.*

Attest:

M. D. THATCHER, *Sec'y.*

THE CANON CITY AND SAN JUAN RAILWAY COMPANY.

By FREDERICK A. REYNOLDS, [SEAL]
President.
BENJAMIN F. ROCKAFELLOW, [SEAL]
Secretary.
JAMES CLELLAND, [SEAL]
[SEAL] *Treasurer.*

PUEBLO, COLORADO, September 2nd, 1878.

Certificate
of ratification of
proposition of
consolidation by
stockholders of
P. & A. V. (II.).

This is to certify, that at a special meeting of the stockholders of the Pueblo and Arkansas Valley Railroad Company held this day, a resolution was offered, approving, ratifying and confirming the within proposition of consolidation.

That a vote was taken upon the said resolution by ballot, resulting in 39,945 shares being voted in favor of it, and 5000 shares against it. More than three fourths of the

entire subscribed capital stock of the Company having voted in favor of said resolution, it was declared adopted.

We further certify, That the entire subscribed capital stock of the Company, as appears by the books of the Company, consists of 47,825 shares.

O. H. P. BAXTER,
CHAS. E. GAST,
Tellers.

CANON CITY, COLORADO, September 3rd, 1878.

This is to certify, That at a special meeting of the stockholders of the Canon City and San Juan Railway Company, held this day, a resolution was offered, approving, ratifying and confirming the within proposition of consolidation;

Certificate of ratification of proposition of consolidation by stockholders of C. C. & S. J.

That a vote was taken upon the said resolution by ballot, resulting in 977 shares being voted in favor of it, and none against it. More than three fourths of the entire subscribed capital stock of the Company having voted in favor of said resolution, it was declared adopted.

We certify further, that the entire subscribed capital stock of said Company, as appears by the books of the Company, consists of 1000 shares.

M. N. MEGRUE,
B. F. ROCKAFELLOW,
Tellers.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of Sec'y of State.

I, Melvin Edwards, Secretary of State of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the proposition of Consolidation and Merger between the Pueblo and Arkansas Valley Railroad Company, and the Canon City and San Juan Railway Company, which was filed in this office the twelfth day of September, A.D. 1878, at 9 o'clock, A.M. and admitted to record.

Agreement filed Sept. 12, 1878.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the Great Seal of the State of Colorado, at the City of Denver, this eleventh day of April, A.D. 1885.

[SEAL] MELVIN EDWARDS,
Secretary of State.

ARTICLES OF CONSOLIDATION

OF

THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY (II.)

AND

THE CANON CITY AND SAN JUAN RAILWAY CO.

INTO

THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY (III.).

Special Meeting
of stockholders of
P. & A. V. (II.) to
consider proposition
of consolidation.

Whereas, at a special meeting of the stockholders of the Pueblo and Arkansas Valley Railroad Company, held at Pueblo, Colorado, on the second (2nd) day of September, A.D. 1878, there was submitted a proposition for consolidating and merging the capital stock, franchises and property of the said Pueblo and Arkansas Valley Railroad Company, with the capital stock, franchises and property of the Canon City and San Juan Railway Company, and thereby severally and collectively to merge and consolidate the capital stock, franchises and property of each of said corporations with the capital stock, franchises and property of the other, and into one consolidated corporation, subject to all liabilities, charges and responsibilities thereto by law consequent and appertaining; which said proposition and the terms and conditions thereof had been previously thereto agreed upon, subject to the due ratification of the stockholders aforesaid by the Executive Committee of the Board of Directors of the Pueblo and Arkansas Valley Railroad Company, and the President, Secretary and Treasurer of the Canon City and San Juan Railway Company in that behalf duly authorized by the said several corporation parties, and

Ratification thereof
at said Meeting.

Whereas, at the aforesaid meeting of the stockholders of the Pueblo and Arkansas Valley Railroad Company the said

proposition of consolidation was approved, ratified and confirmed by a vote of more than three-fourths of the capital stock of said company, and

Art of Consol.
P. & A. V. (III)

Whereas, at a special meeting of the stockholders of the Canon City and San Juan Railway Company, held at Canon City, Colorado, on the third (3rd) day of September, A.D. 1878, the same proposition of consolidation and merger was submitted, and was likewise approved, ratified and confirmed by a vote of more than three-fourths of the capital stock of said company:

Ratification of
proposition of
consolidation by
stockholders of
C. C. & S. J.

NOW THEREFORE, This is to certify that in consideration of the proceedings aforesaid, and of the mutual agreements, covenants, provisions and grants in said proposition contained, the said several corporations have merged, combined and consolidated their respective capital stocks, franchises, grants, immunities, privileges, capacities, properties, and rights of way of every name and nature into one consolidated company to be called and known by the corporate name and style of "The Pueblo and Arkansas Valley Railroad Company."

Consolidation.

Corporate name.

This is to certify further that by the said proposition of consolidation the following appear as the terms and conditions thereof.

ARTICLE I. The following named persons have been chosen the first directors of the said consolidated company, and shall act as such until the next annual election of directors as is herein prescribed, and until their successors are duly elected: Joseph Nickerson, Thomas Nickerson, F. H. Peabody, M. D. Thatcher, O. H. P. Baxter, Geo. B. Wilbur, B. P. Cheney, Isaac T. Burr and William B. Strong.

First directors.

ARTICLE II. The number of the directors of said consolidated company shall be not less than nine (9), nor more than thirteen (13). The number of directors shall remain nine (9) as constituted by the preceding article, until the same is changed by a vote of the stockholders at an annual meeting.

Number of directors.

ARTICLE III. The first regular annual meeting of the stockholders of the said consolidated company shall be held on Saturday the tenth (10th) day of May, 1879.

Annual meeting of
stockholders.

**Art. of Consol.
P. & A. V. (III.).
Officers**

ARTICLE IV. The present officers, agents and committees of the Pueblo and Arkansas Valley Railroad Company shall remain the officers, agents and committees of the said consolidated company with like powers and duties, until at a meeting of the directors of the consolidated company the same are changed.

By-laws.

And the present by-laws of the Pueblo and Arkansas Valley Railroad Company so far as the same do not conflict with these Articles, shall remain for the governance of the consolidated company until the same are altered or repealed.

Capital stock.

ARTICLE V. The capital stock of the consolidated company shall be the aggregate of the capital stocks of the said several corporations, to-wit: Six Million, one hundred thousand dollars (\$6,100,000) divided into sixty one thousand (61,000) shares of one hundred dollars (\$100) each.

Corporate seal.

ARTICLE VI. The corporate seal of the consolidated company shall be that of the late Pueblo and Arkansas Valley Railroad Company, until otherwise ordered by the stockholders; and the term of corporate existence shall continue for fifty (50) years from the date of the filing of these Articles.

**Principal office and
place of business.**

ARTICLE VII. The principal office and place of business of the consolidated company shall be at the city of Pueblo, Pueblo County, State of Colorado, and the operations of the company shall be carried on along the lines of the routes hereinafter designated.

**Corporate purposes
and authorized lines.**

ARTICLE VIII. The corporate purposes of the said consolidated company shall be to locate, construct, own, possess, operate and maintain certain railroad and telegraph lines, and to lease and operate any other lines connecting therewith, as follows; that is to say; Main line commencing at a point at the present western terminus of the Atchison, Topeka and Santa Fe Railroad in the Arkansas Valley, at or near the eastern boundary of the state of Colorado; thence westerly and northwesterly following the general direction of and along said valley of the Arkansas River, or the slopes thereof, through the counties of Bent and Pueblo, to the city of Pueblo, in said state; thence

continuing along the valley of the said river, to Canon City, in the county of Fremont, in said state; thence in a westerly direction along said Arkansas River, and the tributaries thereof, to Pleasant Valley, and still continuing along the valley of said Arkansas River, and the slopes thereof, through the county of Lake, to Tennessee Pass, and across said Pass, by such route as may be determined upon after a survey thereof, to the western boundary of the State of Colorado, through Park and Summit Counties;

Art. of Consol.
P. & A. V. (III.)

First: A branch from the said main line extending from the most suitable point thereon east of the city of Pueblo, and extending in a westerly and southwesterly direction through the counties of Bent and Las Animas to Trinidad; and thence in a southerly direction to the southern boundary of the state of Colorado and to Santa Fe and Albuquerque, in the Territory of New Mexico.

Second: A branch having its initial point on the said main line between the city of Pueblo and Canon City, at or near the confluence of the Arkansas River and Oak Creek; thence up Oak Creek and the slopes and tributaries thereof to the head waters of said creek, through the counties of Fremont and Custer.

Third: A branch having its initial point on the said main line at or near the mouth of California Gulch and extending up said gulch, through the towns of Malta and Leadville, to Ora City in Lake County.

Fourth: Also a branch having its initial point on the said main line at or near the mouth of the south Arkansas River, in Lake County; thence along the valley of the south Arkansas, and the slopes thereof, to a point near the mouth of Poncha Creek; thence up the Canon of said Poncha Creek to a point at or near the mouth of the South Fork of said Poncha Creek; thence along the valley of said Poncha Creek and the slopes and tributaries thereof, to the summit of Poncha Pass; thence continuing in a southerly direction, through the San Luis Valley, to Saguache and Del Norte, on the Rio Grande River; thence up the valley of the Rio Grande River, through Wagon Wheel Gap and Antelope Park, to the head waters of the said Rio Grande

Art. of Consol.
P. & A. V. (III.).

River; thence through Stony and Cunningham Gulches; or by any other route deemed more practicable upon survey into Bakers Park; thence down the valley of the Animas River, and along the slopes thereof to its confluence with the San Juan River; thence in a westerly direction down the valley of said San Juan River, to the western Boundary of the State of Colorado, the said branch extending through the counties of Lake Saguache, Rio Grande, Hinsdale, La Plata and San Juan.

Fifth: Also a branch having its initial point in the valley of Poncha Creek about five (5) miles south of its confluence with the South Arkansas River, thence through Lake and Gunnison Counties along the valley of Poncha Creek and the slopes and tributaries thereof to Marshall's Pass at the summit of the Main Continental Divide; thence down the valley of Tomichi Creek and the slopes and tributary valleys thereof, into the valley of the Gunnison River, and along the valley of said river through the Grand Canon thereof to the junction of the Gunnison and Cebolla Canons; thence up the Cebolla Canon, and the valley and slopes of the Cebolla River to the divide between the Cebolla and Uncompahgre Rivers; thence down the valley of Cedar Creek, a tributary of the Uncompahgre to the valley of Uncompahgre; thence along the valley of the Uncompahgre and the slopes thereof, to the valley of the Gunnison River; thence along the valleys of the Gunnison and Grande Rivers or the tributary valleys and slopes thereof, to the western boundary of the State of Colorado

Sixth: A branch having its initial point at the junction of the Gunnison and Lake Fork Canons in Gunnison County, thence up the valleys or tributary valleys of the Lake Fork of the Gunnison to Lake City in Hinsdale County.

Seventh: A branch having its initial point at the most practicable point in the valley of Cedar Creek, a tributary of the Uncompahgre in Gunnison County; thence along the valley of the Uncompahgre and the slopes and tributary valleys thereof to Ouray in Ouray County.

Eighth: A branch having its initial point at the most practicable point in Antelope Park, near the mouth of Clear Creek, thence up Clear Creek and the slopes thereof, to the summit of the main divide; thence by the most practicable route to Lake City.

Art. of Consol.
P. & A. V. (III.).

Ninth: A branch having its initial point at or near Saguache in Saguache County; thence up the valley of Saguache Creek, the slopes and tributaries thereof to Cochetopa Pass, at the summit of the main divide; thence down Cochetopa Creek the tributary valleys and slopes thereof to the valley of Tomichi Creek.

Tenth: A branch having its initial point at or near the city of Pueblo; thence through Pueblo and El Paso counties, by the most practicable route along the Fountain que Bouille to Colorado Springs; thence through El Paso County by the valley of East Fork of the Fountain que Bouille to the divide between the waters of the Arkansas and Platte Rivers; thence by the most practicable route along the tributary valleys of the Platte River, and the slopes thereof to Denver in Arapahoe County; thence by the most practicable route in a northwesterly direction to a point near the outlet of Ralston Creek from the mountains in the county of Jefferson; thence by the most practicable and feasible route to the top of Guy Hill near where the old stage road crosses the same; thence on the southerly slope of Guy Gulch to a point at or above "Bartons Rancho"; thence crossing said Gulch and occupying the southeasterly slope of the mountains which lie between Guy Gulch and Clear Creek to a point known as Robinson's Summit; thence along the southerly slope of the Robinson Mountain by the most practicable and feasible route to Lake's Rancho in Gilpin County; thence along the northerly slope of the mountain by the most practicable and feasible route to a crossing of Smith Creek or Gulch near the forks of the said creek or Gulch; thence on the southerly slope of the mountain to the city of Black Hawk, in said Gilpin County; thence by the most practicable and feasible route to Central City, in said County of Gilpin; thence running easterly upon the north slope of

Art. of Consol.
P. & A. V. (III.)

the mountain lying between Gregory and Lake Gulches and crossing said mountain east of "Bobtail Hill"; thence deflecting westward by the most practicable and feasible route passing at or near the Consolidated Ditch Lake at the head of said Lake Gulch; thence in a westerly direction on the most practicable and feasible route through Missouri City into the valley of Russell Gulch, to the summit of the mountain at or near the head of Davenport Gulch at the north end of Bellevue mountain on the line of Gilpin and Clear Creek Counties; thence bearing northwesterly by the most practicable and feasible route upon the southerly slope of the mountain which drains into Fall River in Clear Creek County, to a suitable crossing of said Fall River at or above Hamlin Creek; thence crossing the ridge dividing the drainage of Fall River from south Clear Creek by the most practicable and feasible route to a point on said South Clear Creek at or below the junction of the north and south branches of said creek, thence up the valley of the south Fork of said Creek to the town of Georgetown in said Clear Creek County, Colorado.

All obligations
of consolidating
companies assumed
by new company.

ARTICLE IX. Each and every existing bond, lease, agreement and obligation, action or liability heretofore entered into, assumed or agreed to by the late Pueblo and Arkansas Valley Railroad Company or by the Canon City and San Juan Railway Company shall be sacredly discharged, fulfilled and observed by the Consolidated Company hereby created; and each and every of the acts, assumptions proceedings, resolutions, and doings of the respective Board of Directors of the said companies and of their authorized agents, officers and committees, shall be and the same are hereby ratified confirmed and made valid and shall be observed by the consolidated company.

Stockholders of
consolidating
companies to receive
share for share in
new company.

ARTICLE X. From and after the consummation of this act of consolidation, the share or stockholders of said several corporations shall be share or stockholders in the consolidated corporation hereby created and established, and shall be entitled and hold therein a number of shares equal to the aggregate number held by them respectively in each and both of the corporations hereby merged and consoli-

dated; and the directors of the consolidated company acting by their appropriate officers shall call in all the stock of the several corporations and cancel the same, and issue in lieu thereof a like number of the shares of the consolidated company, share for share alike; and the shares of the consolidated company shall be identified and distinguished from the shares of the late Pueblo and Arkansas Valley Railroad Company by having printed or stamped upon the face thereof the word "Consolidated."

Art. of Consol.
P. & A. V. (III.)

Designation of shares
of Consolidated
Company on stock
certificates.

ARTICLE XI. All and singular the rights, privileges and franchises of each of said several corporations, and all property real, personal and mixed and all debts due on whatever accounts as well as of stock subscriptions, and other things in action belonging to each of the said corporations shall be taken and deemed transferred to and vested in the consolidated corporation hereby established, without other or further act or deed than these presents; and all property, rights of way and all and every other interest shall be as effectually the property of the consolidated company, as they were of the former corporations, and all rights of creditors, and all liens upon the property created by either of said corporations, shall be preserved unimpaired notwithstanding said merger and consolidation; and all debts, liabilities and duties of either of said corporations so merged shall henceforth attach to the said new corporation and be enforced against it to the same extent and in the same manner as if said debts, liabilities and duties had been incurred and contracted by it.

Rights and obligations
of Consolidated
Company.

This is to certify further, that the government of the said consolidated company and the management of its affairs will be vested in the following officers as created by the by-laws of the late Pueblo and Arkansas Valley Railroad Company: President, Treasurer, Assistant Treasurer, and Secretary.

Officers of
Consolidated Co.

IN WITNESS WHEREOF, we, the undersigned, M. D. Thatcher, O. H. P. Baxter and Chas. E. Gast of Pueblo, Colorado, stockholders in the late Pueblo and Arkansas Valley Railroad Company; and Frederick A. Raynolds, B. F. Rockafellow and James Clelland of Canon

Attesting clause.

Naming the subscrib-
ing stockholders of
the Consolidating
Companies.

Art. of Consol.
P. & A. V. (III.).

City, Colorado, stockholders of the Canon City and San Juan Railway Company have hereunto set our hands and seals this fifth (5th) day of September, 1878, in compliance with section 125 of an Act of the Colorado Legislature; approved March 14th, 1877, entitled, "An act to provide for the formation of corporations."

M. D. THATCHER. [SEAL]
CHAS. E. GAST. [SEAL]
BENJAMIN F. ROCKAFELLOW. [SEAL]
O. H. P. BAXTER. [SEAL]
FREDERICK A. RAYNOLDS. [SEAL]
JAMES CLELLAND. [SEAL]

Acknowledgment by
Thatcher, Baxter, and
Gast, stockholders
of P. & A. V. (II.).

STATE OF COLORADO, }
PUEBLO COUNTY, } ss.

I, Robt. F. Lytle, a Notary Public in and for said county in state aforesaid, do hereby certify that M. D. Thatcher, O. H. P. Baxter and Chas. E. Gast, personally known to me to be the persons who subscribed the foregoing certificate, appeared before me this day in person and acknowledged that they signed and sealed the same as their free act and deed.

Given under my hand and notarial seal, this 9th day of September, A.D. 1878.

[SEAL]

R. F. LYTLE,
Notary Public.

Acknowledgment of
Raynolds, Rockafellow, and Clelland,
stockholders of
C. C. & S. J. R'y Co.

STATE OF COLORADO, }
FREMONT COUNTY, } ss.

I, Charles E. Waldo, a Notary Public in and for said county in the state aforesaid, do hereby certify that Frederick A. Raynolds, Benjamin F. Rockafellow and James Clelland personally known to me to be the persons who subscribed the foregoing certificate, appeared before me this day in person and acknowledged that they signed and sealed the same as their free act and deed.

Given under my hand and notarial seal, this tenth day of September, 1878.

[SEAL]

CHAS. E. WALDO,
Notary Public.

(INDORSEMENTS.)

Art. of Consol.
P. & A. V. (III.).STATE OF COLORADO, }
COUNTY OF BENT, } ss.

I hereby certify that this instrument was filed for record
Sept. 25th, 1878, at 5 o'clock, P.M., and duly recorded in
Book 2, pages 533 to inclusive:

Certificate of recording
in Bent County.

H. W. JONES,
Recorder.

STATE OF COLORADO, }
COUNTY OF FREMONT, } ss.Certificate of recording
in Fremont County.

I hereby certify that this instrument was filed for record
Sept. 13, 1878, at 8 o'clock A.M., and recorded in Book
No. 14, page 86-91.

JNO. WILSON,
Recorder.

STATE OF COLORADO, }
COUNTY OF PUEBLO, } ss.Certificate of recording
in Pueblo County.

I hereby certify that this instrument was filed for record
Sept. 30, 1878, and at 8.50 o'clock A.M. and recorded in
Book 23, on pages 244-2 1.

GEO. H. HOBSON,
Recorder.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.Certificate of
Sec'y of State.

I, James Rice, Secretary of State of the State of Colo-
rado, do hereby certify that the foregoing is a full, true
and complete transcript of the Articles of Merger Consoli-
dation and Incorporation of The Pueblo and Arkansas
Valley Railroad Company, which was filed in this office
the 12th day of September, A.D. 1878, at 9 o'clock, A.M.,
and admitted to record.

Articles filed
Sept. 12, 1878.

IN TESTIMONY WHEREOF, I have hereunto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver, this 11th day of Feby A.D., 1886.

[SEAL]

JAMES RICE,
Secretary of State.

AMENDMENT TO CHARTER
OF
THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY. (III.)

STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Amendment filed
March 21, 1887.

I, James Rice, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Amendments to Certificate of Incorporation of The Pueblo and Arkansas Valley Railroad Company, which was filed in this Office the twenty-first day of March A.D. 1887 at 9 o'clock A.M. and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this twenty-seventh day of February, A.D. 1890.

[SEAL]

JAMES RICE,
Secretary of State.

Recital as to
passage of following
resolutions at
stockholders' Meeting
of Feb. 15, 1887.

Whereas, at a special meeting of the stockholders of the Pueblo and Arkansas Valley Railroad Company, duly called and held at the office of the Company in the City of Pueblo, Colorado, on the fifteenth day of February A.D. 1887, at which time there were present in person or by proxy 56160 shares of the capital stock of said company, the following resolutions were adopted by a vote of 56160 shares, no votes being cast in the negative, the entire outstanding capital stock of the said company being at the date of said meeting 56162 shares:

Recital as to proposed
branch line to be
authorized by
amendment.

Whereas, in addition or extension of the lines of railroad mentioned in the "Articles of Merger, consolidation and Incorporation of the Pueblo and Arkansas Valley Railroad Company" executed the 5th day of September A.D. 1878, and filed in the office of the Secretary of State of the State

of Colorado on the 12th day of September A.D. 1878, the same constituting the present Articles of Incorporation and association of this Company, this Company desires to construct, maintain and operate a branch line of Railroad from a point on its main line, at or near the City of Pueblo, thence through the Counties of Pueblo and El Paso to Colorado Springs, thence in an easterly direction to a point on the state line between the States of Colorado and Kansas, between the 38th, and 39th, degrees of North latitude.

Amendment
of Charter
P. & A. V. (III.).

NOW THEREFORE BE IT RESOLVED; that said agreement of consolidation and Articles of association be, and the same is hereby amended by adding to Article 8 thereof, the following:

Resolution to amend
Art. 8 of Art. of Consol.

2. A Branch having its initial point at or near the City of Pueblo on the main line, thence through Pueblo and El Paso Counties by the most practicable route to Colorado Springs, thence in an easterly direction, by the most practicable route to a point on the state line between the states of Colorado and Kansas, between the 38th, and 39th, degrees of North latitude, and to a connection with the proposed line of The Chicago, Kansas & Western Railroad Company.

Amendment
describing authorized
branch.

RESOLVED FURTHER, that a certificate of this amendment be duly made under the corporate seal of this Company, attested by its President and Secretary, and that such certificate be filed in the office of the Secretary of State, and also in the office of the Recorder of Deeds of each county in which the principal business of this Company may be carried on, as required by and in compliance with Sec. 127, Chap. 19 General Statutes of Colorado.

Resolution that
Certificate of
Amendment be filed
with Sec'y of State.

NOW THEREFORE, We, William B. Strong, President and M. D. Thatcher, Secretary, of said Pueblo and Arkansas Valley Railroad Company, hereby certify that said Company determined in the manner aforesaid to amend its Articles of Association and that the foregoing are true copies of the original resolutions, which were adopted by a vote of more than two-thirds in value of its stockholders.

Certificate of
President and
Secretary that the
foregoing are true
copies of the resolu-
tions passed by
two-thirds in value
of the stockholders.

[SEAL]

WM. B. STRONG, *President*.
M. D. THATCHER, *Secretary*.

SECOND AMENDMENT TO CHARTER
OF
THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY. (III.)

**Certificate of
proceedings at
stockholders' Meeting
of May 12, 1888.**

KNOW ALL MEN BY THESE PRESENTS and this is to certify and declare that at a special meeting of the stockholders of The Pueblo and Arkansas Valley Railroad Company held at the office of the Company, Pueblo, Colorado, May, 12th A.D. 1888, upon a call of the stockholders present in person or by proxy, there were found to be represented at said meeting fifty-six thousand one hundred and fifty-nine (56,159) shares of the capital stock out of a total of fifty-six thousand one hundred and sixty-two (56,162) shares, issued and outstanding.

Due proof having been submitted and entered of record that the said meeting had been legally called and convened, the following proceedings were had and adopted, viz:

**Resolution to amend
Articles by increasing
number of directors
from 9 to 13.**

It was resolved that the articles of incorporation of the Company be amended so as to increase the number of Directors from nine (9) to thirteen (13), and that the President and Secretary execute in the name of the Company a certificate of this amendment to be filed as provided by law.

**Stock vote on
foregoing resolution
and its adoption by
a three-fourths vote.**

A vote by ballot was taken upon the foregoing resolution whereupon it was found that fifty-six thousand one hundred and fifty-nine (56,159) shares had voted in the affirmative, and none in the negative, and the same was thereupon declared adopted by a vote exceeding three fourths (3-4) in number of the entire shares of the company issued and outstanding.

Attesting clause.

WITNESS my hand and seal of said company this twelfth day of May A.D. 1888.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

[SEAL]

Attest:

WM. B. STRONG, *President.*

M. D. THATCHER, *Secretary.*

STATE OF COLORADO, }
COUNTY OF PUEBLO, } ss.

Second amendment
of Charter
P. & A. V. (III.).
Affidavit of
correctness of
foregoing certificate.

Wm. B. Strong, being first duly sworn, deposes and says that he is President of The Pueblo and Arkansas Valley R.R. Co. that he has read and executed the foregoing certificate, and that the same is correct.

WM. B. STRONG.

Subscribed to and sworn to before me this twelfth day of May, A.D. 1888.

ALLEN J. BEAUMONT,

[SEAL]

Notary Public.

My commission expires Jan. 28, 1890.

(INDORSED.)

Indorsement of
Sec'y of State.

Certificate of Amendment of Articles of Incorporation of The Pueblo and Arkansas Valley Railroad Company.

Filed in the office of the Secretary of State, of the State of Colorado, on the 25th day of May, A.D. 1888, at 9 o'clock A.M.

JAMES RICE,

Secretary of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Sec'y of State.

I, James Rice, Secretary of State of the State of Colorado, do hereby certify that the annexed is a full, true, and complete transcript of the Certificate of Amendment of Articles of Incorporation of The Pueblo and Arkansas Valley Railroad Company, which was filed in this office the 25th day of May, A.D. 1888 at 9 o'clock, A.M. and admitted to record.

Amendment filed
May 25, 1888.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the great seal of the State of Colorado, at the City of Denver this 26th day of May, A.D. 1888.

JAMES RICE,

[SEAL]

Secretary of State.

ACCEPTANCE OF STATUTORY POWERS

AND OF THE

PROVISIONS OF THE CONSTITUTION OF COLORADO

BY COMPANIES NOW MERGED IN

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY. (III.)

AND AMENDMENTS OF AND ADDITIONS TO THE
STATUTES THUS ACCEPTED.

Meeting of Executive
Committee
P. & A. V. (I.)
May 13, 1875.

EXTRACT FROM THE RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY (I.), HELD AT BOSTON MASS. ON MAY 13TH, 1875.

On motion of Mr. B. P. Cheney it was

Vote to accept Act
of Colorado relating
to railroads, etc.

VOTED: That this corporation accept an act of Colorado entitled "An Act relating to Railroads, Wagon-roads and Mining Companies, Subscriptions to Stock, Issue of Bonds, Taxes to pay Interest and Principal by Counties, Cities or Towns, and for other purposes," and that the President, Joseph Nickerson, be authorized and directed to execute under the seal of the corporation and the Secretary to attest an acceptance in the words following:

Form of certificate
to be filed with
Sec'y of State.

The Pueblo and Arkansas Valley Railroad Company hereby accepts an act of Colorado entitled: "An Act relating to Railroads, Wagon-roads and Mining Companies, Subscriptions to Stock, Issue of Bonds, Taxes to pay Interest and Principal by Counties, Cities or Towns, and for other purposes," approved January 10, A.D. 1868 and contained in sections fifty-two, fifty-three, fifty-four, fifty-five,

fifty-six, fifty-seven, fifty-eight, fifty-nine and sixty of Chapter XVIII of the Revised Statutes of Colorado.

IN WITNESS WHEREOF said Pueblo and Arkansas Valley Railroad Company has caused its corporate seal to be hereto affixed and its name to be signed by Joseph Nickerson its President this thirteenth day of May A.D. eighteen hundred and seventy-five.

THE PUEBLO AND ARKANSAS VALLEY R.R. Co.

By JOS. NICKERSON,

[SEAL]

Prest.

and that the same be filed with the Secretary of Colorado.

THE PROCEEDINGS of the meeting of the Executive Committee of May 13, 1875, printed above, were ratified by the Board of Trustees of The Pueblo and Arkansas Valley Railroad Company (I.) at a meeting held on May 17, 1876.

The statutes accepted under authority of the foregoing vote will be found printed in the Revised Statutes of Colorado of 1868 in the sections mentioned in the said vote. These statutes are not re-printed in this compilation for the reason that their provisions have been superseded by other laws upon the same subject, which will be found in the General Statutes of Colorado of 1883, and the subsequent Session Laws.

Explanation as to statutes accepted.

EXTRACT FROM THE RECORD OF A MEETING OF THE STOCKHOLDERS OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY (II), HELD AT PUEBLO, COLORADO ON MAY 11TH, 1878.

Meeting of Stockholders P. & A. V. (II.) May 11, 1878.

On motion of Thos. Nickerson it was

RESOLVED, That we do hereby accept the provisions of the Constitution of the State of Colorado, and that the President and Secretary be and are hereby authorized to execute a proper certificate thereof in accordance with Section 7 Article XV of the said Constitution.

Resolution accepting Constitution of State of Colorado

Stock vote thereon. A vote was taken by ballot on the foregoing resolution which resulted in 26,282 shares being voted in its favor and none against it.

On motion of Thos. Nickerson it was

Resolution accepting Act of March 14, 1877. RESOLVED, That we hereby accept the provisions of an act of the Colorado Legislature entitled "An Act to provide for the formation of Corporations" approved March 14th, 1877, and that the President and Secretary be and are hereby authorized to execute and file a proper certificate to that effect in accordance with Section 130 of the aforesaid law.

Stock vote thereon. A vote was taken by ballot on the aforesaid resolution which resulted in 21,282 shares being voted in its favor and 5,000 against. The resolution was thereupon declared adopted by a vote of two-thirds of all the stock of the Company.

**PROVISIONS OF THE CONSTITUTION OF THE
STATE OF COLORADO**

ACCEPTED BY THE FOREGOING VOTE.

ARTICLE XV.

CORPORATIONS.

SECTION 1. All existing charters or grants of special or exclusive privileges under which the corporators or grantees shall not have organized and commenced business in good faith at the time of the adoption of this Constitution, shall thereafter have no validity.

Repeal of all special charters of corporations not organized and doing business at adoption of Constitution.

SEC. 2. No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal or reformatory corporations as are or may be under the control of the State; but the General Assembly shall provide by general laws for the organization of corporations hereafter to be created.

No special charters to be granted or extended except for certain purposes.

SEC. 3. The General Assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this Constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the State, in such manner, however, that no injustice shall be done to the corporators.

Charters may be altered or repealed when deemed injurious to citizens.

SEC. 4. All railroads shall be public highways, and all railroad companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any designated points within this State, and to connect at the State line with railroads of other States and Territories. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad.

All railroads public highways and all R.R. Cos. common carriers.

R.R. Cos. may connect at state line with roads in other states and territories.

Constit. of Col.
Art. XV.

Consolidation with
parallel or competing
line prohibited.

Undue discrimination
prohibited.

No railroad or
transportation Co.
to have benefit of
future laws without
filing acceptance of
Constitution.

Right of eminent
domain not to be
abridged.

Police power not to
be abridged.

Requirements as to
the issuing of stock
and bonds.

Requirements
as to increase
of capital stock.

Foreign corporations
must have place of
business and agent
in State in order
to do business.

SEC. 5. No railroad corporation, or the lessees or managers thereof, shall consolidate its stock, property or franchises with any other railroad corporation owning or having under its control a parallel or competing line.

SEC. 6. All individuals, associations and corporations shall have equal rights to have persons and property transported over any railroad in this State, and no undue or unreasonable discrimination shall be made in charges or in facilities for transportation of freight or passengers within the State, and no railroad company, nor any lessee, manager or employee thereof, shall give any preference to individuals, associations or corporations in furnishing cars or motive power.

SEC. 7. No railroad or other transportation company in existence at the time of the adoption of this Constitution, shall have the benefit of any future legislation without first filing in the office of the Secretary of State an acceptance of the provisions of this Constitution, in binding form.

SEC. 8. The right of eminent domain shall never be abridged, nor so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the State.

SEC. 9. No corporation shall issue stocks or bonds, except for labor done, service performed, or money or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock, first obtained at a meeting held after at least thirty days' notice given in pursuance of law.

SEC. 10. No foreign corporation shall do any business in this State without having one or more known places of business and an authorized agent or agents in the same, upon whom process may be served.

SEC. 11. No street railroad shall be constructed within any city, town or incorporated village, without the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

Constit. of Col.
Art. XV.

Street railroads
to be subject to
local authorities.

SEC. 12. The General Assembly shall pass no law for the benefit of a railroad or other corporation, or any individual or association of individuals, retrospective in its operations, or which imposes on the people of any county or municipal subdivision of the State, a new liability in respect to transactions or considerations already past.

Certain retrospective
laws for benefit
of railroad or other
corporations
prohibited.

SEC. 13. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines, and the General Assembly shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company owning or having the control of a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

Telegraph companies.

SEC. 14. If any railroad, telegraph, express or other corporation organized under any of the laws of this State, shall consolidate, by sale or otherwise, with any railroad, telegraph, express or other corporation organized under any laws of any other State or Territory, or of the United States, the same shall not thereby become a foreign corporation, but the courts of this State shall retain jurisdiction over that part of the corporate property within the limits of the State in all matters which may arise, as if said consolidation had not taken place.

In case of
consolidation with
corporation outside
of State, courts to
retain jurisdiction
over property within
the State.

SEC. 15. It shall be unlawful for any person, company or corporation to require of its servants or employees, as a condition of their employment or otherwise, any contract or agreement whereby such person, company or corporation shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employees while in the service of such person,

Contracts releasing
corporation from
liability to employees
for negligence
prohibited.

company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employees thereof, and such contracts shall be absolutely null and void.

ACT OF MARCH 14, 1877 OF THE STATE OF COLORADO

ACCEPTED BY THE FOREGOING VOTE.

GENERAL LAWS, CHAPTER XIX.—CORPORATIONS.

AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS.

Be it enacted by the General Assembly of the State of Colorado:

Gen. Stats. 1883, § 237.

For what purpose
corporations may
be formed under
this act.

Corporate names.

SECTION 1. That corporations may be formed under the provisions of this act, for any lawful purpose, but the corporate name of every corporation hereafter organized (except Banks and corporations not for pecuniary profit), shall commence with the word "the" and end with the word "corporation," "company," "association" or "society," and shall indicate by its corporate name the business to be carried on by said corporation.

Gen. Stats. 1883, § 238.

Corporations
how formed.

What certificates
of incorporation
must set forth.

SEC. 2. At any time hereafter any three or more persons (except as hereinafter provided) who may desire to form a company for the purpose of carrying on any lawful business, may make, sign and acknowledge before some officer competent to take the acknowledgment of deeds, certificates in writing, in which shall be stated the corporate name of said company, the objects for which the company shall be created, the amount of the capital stock of said company, the term of its existence not to exceed twenty years, except as hereinafter provided, save and except to make perpetual, corporations insuring lives of individuals which have been heretofore or may be hereafter organized under the laws of Colorado, the number of shares of which the said stock shall consist, the number of direc-

tors or trustees of said company and the names of those who shall manage the affairs of such company for the first year of its existence, the name of the town, or place, and the county in which the principal office of the company shall be kept, and the name of the county or counties in which the principal business shall be carried on; and they shall make as many such certificates as may be necessary, so as to file one in the office of the recorder of deeds in each of such county or counties, and one in the office of the secretary of state; and when any company shall be created under the laws of this state for the purpose of carrying on part of its business beyond the limits thereof, such certificate shall state that fact, and shall also state the name of the town and county in this state in which the principal office of said company shall be kept, and shall state the name of the county in which the principal business of such company is to be carried on within this state.

SEC. 3. When the certificates shall have been filed as aforesaid, the secretary of state shall record and carefully preserve the same in his office, and a copy thereof duly certified by the secretary of state under the great seal of the state of Colorado, shall be evidence of the existence of such company, but no certificate shall be filed or received for two corporations bearing the same name.

SEC. 4. Corporations formed under this act shall be bodies corporate and politic in fact and in name, by the name stated in such certificate, and by that name have succession for the period for which they are organized; may in any court of law or equity in this state sue and be sued; may have a common seal, which they may alter or renew at pleasure, by filing an impression of the same in the office of the secretary of state, may own, possess and enjoy so much real and personal estate as shall be necessary for the transaction of their business, whether acquired by purchase, grant, devise, gift or otherwise, and may from time to time sell and dispose of the same or any part thereof when not acquired for the use of the corporation. They may borrow money and pledge their franchises and property both real and personal to secure the payment thereof; and

Act of Mar. 14, 1877.

Gen. Stats. 1883, § 239.

Certificates of
incorporation and
certified copies
thereof.

Gen. Stats. 1883, § 240.

Corporate powers.

Act of Mar. 14, 1877. may have and exercise all the powers necessary and requisite to carry into effect the objects for which they may be formed, as named in their certificate of incorporation.

Gen. Stats. 1883, § 241.

See Stat. Feb. 20, 1889,
post, p. 96.

Shares of capital
stock and
subscriptions therefor.

Forfeiture in case
of failure to pay
assessments.

Gen. Stats. 1883, § 242.

Directors.

Annual election of.

SEC. 5. The shares of stock shall not be less than ten (10) nor more than one hundred (100) dollars each, and shall be deemed personal property and transferable as such in the manner provided by the by-laws; and subscriptions therefor shall be made payable to the corporation, and shall be payable in such instalments and at such time or times as shall be determined by the directors or trustees; and an action may be maintained in the name of the corporation to recover any instalment which shall remain due and unpaid for the period of twenty (20) days after personal demand therefor, or in cases where personal demand is not made, within thirty (30) days after a written or printed demand has been deposited in the post-office properly addressed to the post-office address of such delinquent stockholder. The directors or trustees may by by-laws prescribe for a forfeiture or sale of stock, on failure to pay the instalments or assessments that may from time to time become due, but no forfeiture of stock, or of the amounts paid thereon, shall be declared as against any estate, or against any stockholder, before demand shall have been made for the amount due thereon, either in person or by a written or printed notice, duly mailed to the last known address of such stockholder, at least thirty (30) days prior to the time when such forfeiture is to take effect; *provided*, that the proceeds of any sale, over and above the amount due on said shares shall be paid to the delinquent stockholder.

SEC. 6. The corporate powers shall be exercised by a board of directors or trustees of not less than three nor more than thirteen, who shall respectively be stockholders in said company, and who shall (except the first year), be annually elected by the stockholders, at such time and place as shall be directed by the by-laws of the company; and public notice of the time and place of holding such elections shall be published not less than ten days previous thereto, in the newspaper printed nearest to the place

where the operations of the said company shall be carried on, and the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy; *provided*, a majority of the stock is represented. If a majority of the stock shall not be represented, such meeting may be adjourned by the stockholders present for a period not exceeding sixty days. All elections shall be by ballot and each stockholder shall be entitled to as many votes as he owns shares of stock in the said company; and the persons receiving the greatest number of votes shall be directors or trustees, who shall hold their office until their successors are elected and qualified, and when any vacancy shall happen among the directors or trustees by death resignation or otherwise, it shall be filled for the remainder of the year as shall be provided by the by-laws of said company.

SEC. 7. In case it should happen at any time that an election of directors or trustees shall not be held on the day designated by the by-laws of said company, when it ought to have been held, the company for that reason shall not be dissolved, but it shall be proper to elect such directors or trustees on any subsequent day as shall be prescribed by the by-laws.

Act of Mar. 14, 1877.
Gen. Stats. 1883, § 243.
See Stat. March 31, 1885, *post*, p. 93.
Postponed annual election of directors.

SEC. 8. The directors or trustees shall elect one of their number to be president and may elect or appoint such subordinate officers as the company may by its by-laws designate, and such subordinate officers shall, if required by the company, give security for the faithful discharge of their official duties.

Gen. Stats. 1883, § 244.
President and subordinate officers.

SEC. 9. The stockholders of any corporation formed under the provisions of this act, or the directors or trustees, if the certificate of incorporation so provide, shall have power to make such prudential by-laws as they deem proper for the management of the affairs of the company not inconsistent with the laws of this state, for the purpose of carrying on all kinds of business within the objects and purpose of such company.

Gen. Stats. 1883, § 245.
By-laws.

SEC. 10. It shall not be lawful for such corporations to use any of their funds for the purchase of stock in their

Gen. Stats. 1883, § 246.
Corporation not to purchase its own stock.

Act of Mar. 14, 1877. own company or corporation, except such as may be forfeited from the non-payment of assessments thereon, except as hereinafter provided.

Gen. Stats. 1883, § 247. **Liability of stockholders for debts of company to extent of amount unpaid on stock.** SEC. 11. Each stockholder shall be liable for the debts of the corporation to the extent of the amount that may be unpaid upon the stock held by him, to be collected in the manner herein provided. Whenever any action is brought to recover any indebtedness against the corporation, it shall be competent to proceed against any one or more stockholders at the same time, to the extent of the balance unpaid by such stockholders upon the stock owned by them respectively, whether called in or not, as in case of garnishment.

Gen. Stats. 1883, § 248. **Certificate of capital stock paid in.** SEC. 12. The president and a majority of the directors or trustees within sixty days after the payment of the last instalment of the capital stock, so fixed and limited by the company, shall make a certificate, stating the amount of the capital so fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of the directors or trustees, and they shall, within the said sixty days, record the same in the office of the secretary of state and a copy in the office of the recorder of deeds of the county wherein the business of the said company is carried on.

Gen. Stats. 1883, § 249. **As to books of account of corporations other than railroad and telegraph companies.** SEC. 13. It shall be the duty of the directors or trustees of every corporation except railroad and telegraph companies, to cause to be kept at its principal office or place of business in this state, correct books of account of all its business, and any stockholder in such corporation shall have the right at all reasonable time, to inspect and examine all the books, accounts, and papers of the corporation, and shall have the right as aforesaid to demand of any officer, clerk, cashier, or agent of any such corporation having in his control or custody any such books, accounts, or papers, as such stockholder may desire to examine or inspect; and upon such demand being made in writing, every such officer, clerk, cashier, or agent shall be bound to produce such books, accounts, and papers to such stockholder, and afford due opportunity to examine and inspect

the same; and such stockholders shall have the right to take copies or make extracts therefrom, but shall not remove from the office of the corporation any such books, accounts, and papers. In case of refusal or neglect, by any such officer, clerk, cashier, or agent, to exhibit the same, or to allow the same to be inspected and copies or extracts to be taken therefrom by any stockholder making such request, or who shall secrete, conceal, or destroy any books, accounts, or papers, or who shall prevent, or endeavor to prevent, a full inspection of the same, shall be deemed guilty of a misdemeanor, and be liable to penalty of two hundred dollars, or such less sum as a court or jury may find, to be recovered by action of debt, at suit of the person aggrieved, against the person offending, in the district court of the county where the principal office of such corporation is located.

Act of Mar. 14, 1877.

SEC. 14. All assessments or instalments of the stock of any stock corporation, shall be levied by the directors or trustees in accordance with the provisions of the by-laws, except as hereinafter provided, but any assessments or instalments required to be paid shall be levied *pro rata* upon all shares of such stock, except as hereinafter provided.

Gen. Stats. 1883, § 250.

Assessments
on stock.

SEC. 15. The directors or trustees of any corporation may purchase mines, manufactories and other property necessary for their business and issue stock to the amount of the value thereof in payment therefor; and the stock so issued shall be declared and taken to be full paid stock and not liable to any further calls or assessments, except as hereinafter provided; neither shall the stockholders thereof be liable to any further payments under the provisions of section eleven (11) of this act, but in all statements and reports of the company, this stock shall not be stated or reported as being issued for cash paid into the company, but shall be reported in this respect according to facts.

Gen. Stats. 1883, § 251.

Full paid stock
may be issued to
purchase mines,
manufactories and
other property
necessary for the
business of the
corporation.

SEC. 16. Every such corporation shall annually, within sixty days from the first day of January, make a report, which shall state the amount of its capital and the proportion actually paid in, and the amount of existing debts; which report shall be signed by the president and shall be

Gen. Stats. 1883, § 252.

Annual report of
paid in capital and
existing debts.

- Act of Mar. 14, 1877. verified by the oath of the president or secretary of said company, under its corporate seal, and filed in the office of the recorder of deeds of the county where the business of the company shall be carried on. And if any such corporation shall fail so to do, unless the capital stock of said corporation has been fully paid in and a certificate made and filed as provided in section twelve (12) of this act, all the directors or trustees of the company shall be jointly and severally liable for all the debts of the company that shall be contracted during the year next preceding the time when such report should by this section have been made and filed, and until such report shall be made.
- If annual report or certificate of fully paid capital stock not filed, directors shall be liable for debts of the company.
- Gen. Stats. 1883, § 253. SEC. 17. If the directors, trustees or other officers or agents of any corporation shall declare and pay any dividend when such corporation is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, all directors, trustees, agents or officers assenting thereto, shall be jointly and severally liable for all debts of such corporation then existing, and for all that shall thereafter be contracted while the capital remains so diminished.
- Liability of directors.
- Gen. Stats. 1883, § 254. SEC. 18. The by-laws of every corporation shall provide for the calling of meetings of the directors or trustees, and when such directors or trustees shall be present at any meeting, however called or notified, or shall sign a written consent thereto, on the record of such meeting, the acts of such meeting shall be as valid as if called and notified:
- To be held within State unless otherwise stated in Certificate of Incorporation or ratified by stockholders. *Provided*, that unless it shall be stated in the certificate of incorporation that meetings of the directors or trustees may be held beyond the limits of this State, or unless such meeting was authorized or its acts ratified by a vote of a majority of the stockholders at a regular meeting, the action of any meeting held beyond the limits of this state, shall be void.
- Gen. Stats. 1883, § 255. SEC. 19. If any certified report or statement made, or public notice given, by the officers of any corporation, shall be false in any material representation, all the officers who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all damages arising therefrom.
- Liability of officers for false report or statement.

SEC. 20. No person holding stock in any corporation as executor, administrator, conservator, guardian or trustee, and no person holding such stock as collateral security shall be personally subject to any liability as stockholder of such corporation, but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estate and funds in the hands of such executor, administrator, conservator, guardian, or trustee shall be liable in like manner and to the same extent, as the testator or intestate, or the ward or person interested in such trust funds would have been if he had been living, and had been competent to act and held the stock in his own name.

Act of Mar. 14, 1877.
Gen. Stats. 1883, § 256.
Persons holding stock in representative capacities or as collateral not liable as stockholders.

SEC. 21. Every executor, administrator, conservator, guardian or trustee shall represent the stock in his hands at all meetings of any such corporations, and may vote accordingly as a stockholder, and every person who shall pledge his stock may nevertheless represent the same at all meetings and vote accordingly.

Gen. Stats. 1883, § 257.
Stockholders in representative capacities may vote on stock; so may pledgers.

SEC. 22. If any corporation or its authorized agent shall do any act which shall subject it to a forfeiture of its charter or corporate powers, or shall allow any execution or decree of any court of record for a payment of money, after demand made by the officer, to be returned "no property found," or to remain unsatisfied for ten days after such demand, or shall dissolve or cease doing business, leaving debts unpaid, suits in equity may be brought against all persons who were stockholders at the time, or liable in any way for the debts of the corporation, by joining the corporation in such suit, and each stockholder may be required to pay such debts or liabilities to the extent of the unpaid portion of his stock; and courts of equity shall have full power, on good cause shown, to dissolve or close up the business of any corporation, to appoint a receiver therefor, who shall have authority by the name of the receiver of such corporation, (giving the name) to sue in all courts, and to do all things necessary to closing up its affairs as commanded by the decree of the court.

Gen. Stats. 1883, § 258.
Remedies of creditors in case of forfeiture of charter or insolvency of corporation.

SEC. 23. Foreign corporations shall, before they are

Gen. Stats. 1883, § 260.

Act of Mar. 14, 1877.
Foreign corporations.
Requirements in
order to do business
in State.

authorized or permitted to do any business in this state, make and file a certificate signed by the president and secretary of such corporation duly acknowledged, with the secretary of state, and in the office of the recorder of deeds of the county in which such business is carried on, designating the principal place where the business of such corporation shall be carried on in this state, and an authorized agent or agents in this state residing at its principal place of business upon whom process may be served; and such corporations shall be subjected to all the liabilities, restrictions and duties which are or may be imposed upon corporations of like character organized under the general laws of this state, and shall have no other or greater powers. And no foreign or domestic corporation established or maintained in any way for pecuniary profit of its stockholders or members, shall purchase or hold real estate in this state, except as provided for in this act, and no corporation doing business in this state, incorporated under the laws of any other state shall be permitted to mortgage, pledge or otherwise encumber its real or personal property situated in this state, to the injury or exclusion of any citizen, citizens or corporations of this state who are creditors of such foreign corporation, and no mortgage of any foreign corporation, except railroad and telegraph companies, given to secure any debt created in any other state shall take effect as against any citizen or corporation of this state, until all its liabilities due to any person or corporation in this state at the time of recording such mortgage have been paid and extinguished.

Gen. Stats. 1883, § 261.
Foreign corporations
must file copy of
articles of
incorporation.

SEC. 24. Every company incorporated under the laws of any foreign state or kingdom or of any state or territory of the United States beyond the limits of this state, and now or hereafter doing business within this state shall file in the office of the secretary of state a copy of their charter of incorporation; or in case such company is incorporated by certificate under any general incorporation law, a copy of such certificate and of such general incorporation law duly certified and authenticated by the proper authority of such foreign state, kingdom or territory.

SEC. 25. A failure to comply with the provisions of sections 23 and 24 of this act shall render each and every officer, agent and stockholder of any such corporation, so failing herein, jointly and severally personally liable on any and all contracts of such company made within this state during the time that such corporation is so in default.

Act of Mar. 14, 1877.
Gen. Stats. 1883, § 262.
Penalty for non-compliance with two previous sections.

SEC. 26. The several certificates, statutes and charters mentioned in section twenty-four (24) of this act, shall be by the secretary of state filed and preserved in his office as a part of the record thereof, and he shall be entitled to a fee of fifty cents for receiving and filing every such certificate and statute. Copies of such charters, statutes and certificates duly certified by the secretary of state under his seal of office, shall be received in all courts of this state, as sufficient evidence of the corporate character of such incorporations, and of all their powers, duties and liabilities and the originals thereof may in like manner be used in evidence of these matters, with like effect.

Gen. Stats. 1883, § 263.
As to articles of incorporation of foreign corporations filed under § 24 and certified copies thereof.

SEC. 27. Suits may be instituted and prosecuted by and against any corporation formed or recognized [organized] under this act, in the same manner and in like cases as natural persons.

Gen. Stats. 1883, § 264.
Suits by and against corporations formed under this act.

SEC. 28. The certified copy of any articles of incorporation and changes thereof together with all indorsements therein [thereon] under the great seal of the state of Colorado, shall be taken and received in all courts and places, as *prima facie* evidence of the facts therein stated.

Gen. Stats. 1883, § 265.
Effect of certified copy of Art. of Inc.

SEC. 29. Nothing in this act shall be construed to allow the construction of any street railroad, by any corporation formed under the provisions of this act, in any city or town, without the consent of the local authorities thereof.

Gen. Stats. 1883, § 266.
See Stat. of March 25, 1885, *Post*, p. 92.
Street railways subject to local authorities.

SEC. 30. In suits against any corporation, summons shall be served in that county where the principal office of the corporation is kept or its principal business carried on, by delivering a copy to the president thereof, if he may be found in said county, but if he is absent therefrom, then the summons shall be served in like manner in such county, on either the vice-president, secretary, treasurer,

Gen. Stats. 1883, § 267.
Service of process in suits against corporations.

Act of Mar. 14, 1877. cashier, general agent, general superintendent, or stockholder of said corporation, within such time, and under such rules as are provided by law for the service of such process in suits against real persons, and if no such person can be found in the county where the principal office of the corporation is kept, or in the county where its principal business is carried on, to serve such process upon, a summons may issue from either one of such counties, directed to the sheriff of any county in this state where any such person may be found, and served with process. If such corporation keeps no principal office in any county, and there is no county in which the principal business of such corporation is carried on, then suit may be brought against it in any county where the above mentioned officers, or any, or either of them may be found; *provided*, that the plaintiff may, in all cases, bring his action in the county where the cause of action accrued.

Gen. Stats. 1883, § 268.

Holder or holders of fifteen per cent. of capital stock may require sworn statements of the affairs of the company.

SEC. 31. Whenever any person or persons owning fifteen (15) per cent of the capital stock of any corporation formed under this act, shall present a written request to the secretary, cashier, or treasurer thereof, that they desire a statement of the affairs of such corporation, it shall be the duty of such secretary, cashier, or treasurer, to make a statement of the affairs of said company, under oath, embracing a particular account of all its assets and liabilities in detail, and to deliver such statement to the persons who presented the said written request to said secretary or treasurer, within twenty (20) days after such presentation; and shall also, at the same time, place and keep on file in the office of the company, for six months thereafter, a copy of such statement, which shall at all times, during business hours, be exhibited to any stockholder of said corporation demanding an examination thereof; such officer, however, shall not be required to make such statement, in the manner aforesaid, oftener than once in six months.

Gen. Stats. 1883, § 269.

Books of stockholders.

SEC. 32. It shall be the duty of the directors or trustees of every such corporation, except railroad or telegraph corporations, to cause a book to be kept by the secretary, or a clerk thereof, containing the names of all persons,

alphabetically arranged, who are, or shall within one year have been, stockholders of such corporation, and showing their place of residence, the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares, and the time when they ceased to be such stockholders, and the amount of stock actually paid in, and what proportion has been paid in cash; which book shall, during the usual business hours of the day, be open for the inspection of the stockholders and creditors of the company, and their personal representatives, at the office or principal place of business of such company, in the county where its business operations shall be located; and any and every such stockholder, creditor, or representative, shall have a right to make extracts from such books; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it shall be transferred liable for the debts of the company, according to the provisions of this act, unless it shall have been entered therein as required by this section, within sixty days from the date of such transfer, by an entry showing to and from whom transferred. Such books shall be presumptive evidence of the facts therein stated, in any suit or proceedings against such corporation, or against any one or more stockholders. Every officer or agent of any such company, who shall neglect to make any proper entry in such book, or shall refuse or neglect to exhibit the same, or allow the same to be inspected, and extracts taken therefrom, shall be as provided by this section, deemed guilty of a misdemeanor, and the corporation shall forfeit and pay to the party injured a penalty of fifty (50) dollars for every such neglect or refusal, and all the damages resulting therefrom.

Act of Mar. 14, 1877.

Stockholders and creditors may make extracts therefrom.

Transfer not valid unless entered in books within sixty days from date.

Effect of such books as evidence.

Penalty for neglect or refusal to make proper entry.

SEC. 33. The dissolution for any cause whatever, of corporations created as aforesaid, shall not take away or impair any remedy given against such corporations, its stockholders, or officers, for any liabilities incurred previous to its dissolution.

Gen. Stats. 1883, § 270.

Effect of dissolution.

CORPORATIONS NOT FOR PECUNIARY PROFIT. Secs. 34-45, omitted.

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CEMETERIES. *Sec. 46, omitted.*
 BANKS. *Secs. 47-56, omitted.*
 SAVINGS BANKS. *Secs. 57-69, omitted.*
 TRUST, DEPOSIT AND SECURITY ASSOCIATIONS. *Secs. 70-79, omitted.*
 TOLL ROADS. *Secs. 80-83, omitted.*
 DITCH COMPANIES. *Secs. 84-88, omitted.*
 FLUME COMPANIES. *Sec. 89, omitted.*
 BRIDGES AND FERRY COMPANIES. *Secs. 90-92, omitted.*
 MINING COMPANIES. *Secs. 93-98, omitted.*
 TELEGRAPH COMPANIES. *Secs. 99-102, omitted.*
 GAS COMPANIES. *Secs. 103-107, omitted.*

RAILROADS.

Gen. Stats. 1883, § 333.
 Requirements for
 Certificate of
 Incorporation.

SEC. 108. Any number of persons, not less than five, may associate under the provisions of this act, to form a company for the purpose of constructing and operating a railroad. Their certificate of incorporation shall, in addition to the matter required in the second session [section] of this act, specify as follows:

First. The places from and to which it is intended to construct the proposed railway.

Second. The time of the commencement and the period of the continuance of such proposed corporation.

Third. The names and places of residence of the several persons forming the association for incorporation.

Fourth. In what officers or persons the government of the proposed corporation and the management of its affairs shall be vested.

Gen. Stats. 1883, § 334.
 Corporate existence.

SEC. 109. No such corporation shall be formed to continue more than fifty years, in the first instance, but such corporation may be renewed from time to time, in such manner as may be provided by law, for periods not longer than fifty years.

Gen. Stats. 1883, § 335.
 Stockholders may fix
 rates of interest to be
 paid on loans for
 construction.

SEC. 110. At all general meetings of the stockholders, those holding a majority in the value of the stock of any such corporation, may fix the rates of interest which shall be paid by the corporation for loans for the construction of

such railway, and its appendages, and the amount of such loans. Act of Mar. 14, 1877.

SEC. 111. Every such corporation, formed under this act, shall, in addition to the powers hereinbefore conferred, have power: Gen. Stats. 1883, § 336. Powers.

First. To lay out its road, not exceeding two hundred feet in width, and to construct the same; and for the purpose of cuttings and embankments to take as much more land as may be necessary for the proper construction and security of the railway; and to cut down any standing trees that may be in danger of falling or obstructing the railway, making proper compensation therefor.

Second. To cross, intersect, or connect its railways with any other railway.

Third. To connect at the state line with railroads of other states or territories.

Fourth. To receive and convey persons and property on its railway.

Fifth. To erect and maintain all necessary and convenient buildings and stations, fixtures, and machinery, for the convenience, accommodation, and use of passengers, freights, and business interests, or which may be necessary for the construction or operation of said railway.

Sixth. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor.

Seventh. From time to time borrow such sums of money as may be necessary for completing, finishing [furnishing] improving, or operating any such railway, and to issue and dispose of its bonds, for any amount so borrowed, and to mortgage its corporate property and franchise to secure the payment of any debt contracted by such corporation, for the purposes aforesaid, in such manner as the shareholders representing a majority of the stock of any such corporation may direct.

SEC. 112. It shall be competent for any railroad or telegraph company, or corporation, upon a vote in person or by proxy of two-thirds in value, of its stockholders, at any meeting thereof, to alter and amend its articles of association. Gen. Stats. 1883, § 353. Amendment of articles of association.

Act of Mar. 14, 1877.

tion, so as to change its termini, or so as to extend the length of the line thereof from either of its termini to such further and other point as they may determine, or for the purpose of constructing branches from its main line, and upon such vote the said company may make articles amendatory of their original articles for the purpose of extending or changing the line of its road, or for constructing branches from its main line as aforesaid; and whenever any such company or corporation shall, by a vote of two-thirds in value of its stockholders, so determine to amend or alter their articles of association, and shall certify to such amendments or alterations, made as aforesaid, under the corporate seal of such company or corporation, attested by its president and secretary, and shall file such certificate in the office of the secretary of state, and also in the office of the recorder of deeds in the county wherein the principal business of each company may be carried on; such amendment, amendments, or alterations shall have the same force and effect as though said amendment or alteration had been included in and made a part of and embraced in its original articles of association.

Gen. Stats. 1883, § 337.

See Stat. of April 20, 1889, *post*, p. 97.

Road to be begun within two years and twenty per cent. expended within five years.

SEC. 113. If any railway corporation, organized under this act, shall not, within two years after its articles of association shall be filed and recorded, as provided in the second section of this act, begin the construction of its road, and expend thereon twenty per cent. of the amount of its capital within five years after the date of its organization, its corporate existence and power shall cease.

Gen. Stats. 1883, § 338.

Right of eminent domain.

SEC. 114. If any corporation formed under this act for the purpose of constructing a road, ditch, bridge, ferry, tunnel, telegraph, or railroad company, shall be unable to agree with the owner for the purchase of any real estate required for the purposes of any such corporation or company, or the transaction of the business of the same, or for right of way, or any other lawful purpose, connected with, or necessary to, the operation of such company, such corporations may acquire such title in the manner provided by law.

Gen. Stats. 1883, § 339.

Same.

SEC. 115. Any corporation formed under the provisions of this act, for the purpose of constructing a road, ditch,

tunnel, or railroad, may cause such examination and survey as may be necessary to the selection of the most advantageous route, and for such purpose, by its officers agents or servants, may enter upon the lands of any person or corporation, but subject to liability for all actual damages which shall be occasioned thereby.

SEC. 116. No corporation shall issue stock or bonds except for labor done, services performed, or money or property actually received, and all fictitious increase of stock or indebtedness shall be void.

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Gen. Stats. 1883, § 340.

Stocks and bonds to be issued only for labor, services, money or property actually received.

SEC. 117. Upon dissolution by expiration of its charter or otherwise, of any corporation now existing or which may hereafter be formed, unless some other person or persons be appointed by some court of competent jurisdiction, the board of directors or trustees of such corporation or the managers of the corporate affairs, by whatever name known, acting last before the time of their dissolution, and the survivors of them, shall be the trustees of the creditors and stockholders of the corporation dissolved, and shall have full power to settle the affairs of the same; to sue for and collect the debts and moneys due to the corporation, or to compound and settle any claims thereof, as they may deem best; to have, hold, reserve, sell and dispose of property, real and personal, of any such corporation dissolved; to adjust and pay all the debts of the corporation dissolved; to divide the residue of the moneys and property belonging to the corporation dissolved, after payment of debts and the necessary and reasonable expenses, among the stockholders holding stock in such corporation, in proportion to the amount paid upon stock, of each stockholder. All such trustees shall be jointly and severally liable to the creditors and stockholder[s] of such corporation dissolved, to the extent of the property and effects which shall come into their hands or possession of any of them, for a proper and faithful discharge of the duties of said trust and disposal of said property and effects.

Gen. Stats. 1883, § 341.

Provisions in case of dissolution.

SEC. 118. The title to all real and personal estate belonging to any such corporation shall, immediately upon the dissolution thereof, unless by a decree of court of com-

Gen. Stats. 1883, § 342.

Effect of dissolution.

Act of Mar. 14, 1877.

petent jurisdiction, declaring such dissolution, it is otherwise ordered, pass to, and rest in such trustees, directors, or managers, and an action at law may be maintained by such trustees, or directors, or the survivors of them, in their own names by the style of the trustees of such corporation dissolved, naming it, for the recovery of all such property, or of any damage done to the same, or for the recovery of any debts due such corporation dissolved.

Gen. Stats. 1883, § 343.

Corporation may sue
its stockholders

SEC. 119. All bodies corporate, by the appropriate action, may sue for, recover and receive from their respective members, all arrears or other debts, dues and other demands, which are now, or hereafter may be owing to them, in like mode, manner and form, as they might sue for, recover and receive the same from any person who might not be one of their body, any law, usage or custom, to the contrary thereof notwithstanding.

Gen. Stats. 1883, § 344.

Sec Stat. of April
8, 1889, *post*, p. 98.

Real estate, how
conveyed.

SEC. 120. It shall be lawful for any corporation, to convey land, by deed sealed with the common seal of said corporation, and signed by the president or the presiding member of said corporation; and such deed, when acknowledged by such officer to be the act of the corporation, prescribed for other conveyances for lands, shall be recorded in the recorder's office of the county where the land lies, in like manner with other deeds.

Gen. Stats. 1883, § 345.

Corporations
authorized by this act
not to be formed
under any other.

SEC. 121. No corporation, association or society, for any purpose authorized by this act, shall be formed under any other act.

Gen. Stats. 1883, § 346.

Provisions for change
of name, place of
business, number of
directors or capital
stock, and for
consolidation with
other corporations.

SEC. 122. That whenever the board of directors, managers, or trustees of any corporation existing by virtue of any general law of the territory of Colorado, or the laws of this state, or any corporation hereafter organized by virtue of any law of this state, may desire to change the name, to change the place of business, to increase or decrease the capital stock, to increase or decrease the number of directors, managers or trustees, or to consolidate said corporation with any other corporation or corporations now existing, or which may hereafter be organized, they may call a special meeting of the stockholders of such corporation, for the purpose of submitting to a vote of the stock-

holders the question of such change of name, change of place of business, increase or decrease of number of directors, managers or trustees, increase or decrease of capital stock, or consolidation with some other corporation, as the case may be. *Provided*, that in changing the name of any corporation, under the provisions hereof, no name shall be assumed or adopted by any corporation similar to, or liable to be mistaken for, the name of any other corporation, organized under the laws of this state, or of the laws of the territory of Colorado, and that in no case shall the capital stock be diminished to the prejudice of the creditors of such corporation, or the number of directors, managers or trustees be reduced to less than three, (except in the cases of incorporation for the purpose of construction of railroad, to not less than five,) or increased to more than thirteen; *and provided further*, that the provisions of this act, in reference to the consolidation of corporations, shall only apply to corporations of the same kind, engaged in the same general business, and carrying on their business in the same vicinity.

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Conditions of said powers.

SEC. 123. Such special meeting shall be called by delivering personally, or depositing in the post-office, at least thirty days before the time fixed for such meeting, a notice properly addressed to each stockholder, signed by the president or secretary, stating the time and object of such meeting.

Gen. Stats. 1883, § 347.

Meeting for above purposes, how called.

SEC. 124. At any such meeting, stockholders may vote in person or by proxy, each stockholder being entitled to one vote for each share of stock held by him; and votes representing two-thirds of all the stock of the corporation shall be necessary for the adoption of the proposed change of name or place of business, number of directors or trustees, amount of capital stock, or consolidation with some other company or companies.

Gen. Stats. 1883, § 348.

Vote of two-thirds of stock required.

SEC. 125. Any corporation, existing for any of the purposes enumerated in this act, may consolidate by uniting the properties and concerns of two or more corporations in one organization, having all the rights and privileges of this act, and amenable to all its liabilities, by complying

Gen. Stats. 1883, § 349.

Consolidation.

Act of Mar. 14, 1877.
Provisions for
consolidation.

with all the requirements herein provided, to-wit: Each corporation desiring to consolidate, each with the other, may, by its trustees or directors, or by the stockholders representing a majority of the stock, call a meeting of the stockholders, as provided in section ninety-five of this act, and vote upon the proposition of consolidation that shall be presented, in writing, at such meeting, when, if by a vote of at least three-fourths (3-4) of the stock of each company severally, the proposition shall be approved, the trustees or directors shall thereupon elect their proportion of the directors, less one, that are to manage the affairs of the consolidated company, and upon the joint meeting of the directors so elected, the said directors shall elect one of the stockholders to be a director and act with them, and they jointly shall constitute a board of directors, who shall organize by electing their officers in accordance with law. They shall prepare a certificate of incorporation setting forth the facts of consolidation, together with all other matters required in original certificates of incorporation, naming therein the directors elected as herein provided, who shall serve for one year, and until their successors are elected; and the said certificate of incorporation shall be signed and acknowledged by at least three of the stockholders of each of the consolidating companies. The certificate so signed and acknowledged shall be filed for record in the office of the secretary of state, and in each of the offices of the county recorders where the certificate of either of the companies so consolidated are on file. The trustees or directors of the consolidating companies, shall, each by proper conveyance, convey to the consolidated company the property and effects of such companies, and shall deposit with the directors of the consolidated company all the transfer books, seals, books and papers of each of the companies so uniting. The directors of the consolidated corporation shall call in all the stock of each of the companies forming a part of the consolidation, cancel the same, and issue in lieu thereof the stock of the new organization in proportion of value of the old to the new as provided in the plan of consolidation: *Provided*, no stock shall be issued

in lieu of old stock except upon the presentation of the old stock or due proof of the loss or destruction of the old certificates of stock, and then only to the parties entitled thereto. When the companies have consolidated as herein provided, the stock of the companies so consolidated shall thereafter represent only its interest in the new organization, whether surrendered and exchanged or not, and shall be subject to all the liabilities of assessment and forfeiture that may pertain to the stock of the consolidated company, and the consolidated company shall be responsible for and shall assume and pay all the just liabilities of each of the companies so consolidated; and any corporation desiring to change its name, place of business, number of directors or trustees, or amount of capital stock shall submit the question at an annual meeting, or a special meeting, called for that purpose, in accordance with the provisions of section 95 of this act. If, at any such meeting, three-fourths of all the stock of such corporation shall vote in favor of the proposed change, or changes, a certificate setting forth the fact or facts, verified by the affidavit of the president of said corporation, and having the seal of the corporation affixed, shall be filed for record with the secretary of state and the recorder of the county where the principal business office of said corporation is located.

Act of Mar. 14, 1877.

Change of name,
place of business,
number of directors
or capital stock.

SEC. 126. Such corporations shall, upon the filing of said certificates, cause to be published in some newspaper, in or nearest the county in which their principal office is located, a notice of such changes of organization, for three successive weeks.

Gen. Stats. 1883, § 350.

Notice of filing of
certificates required
by foregoing section.

SEC. 127. Such change of name, place of business, increase or decrease of capital stock, increase or decrease of number of directors, managers or trustees, or consolidation of one corporation with another or with others, shall not affect suits pending in which such corporation or corporations shall be parties; nor shall such change affect causes of action, nor the rights of persons in any particular; nor, shall suits brought against such corporation by its former name, be abated.

Gen. Stats. 1883, § 351.

Pending suits not
affected by changes or
consolidation under
foregoing sections.

SEC. 128. Whenever any railroad or telegraph company

Gen. Stats. 1883, § 352.

Act of Mar. 14, 1877.

Notice of meeting to be given by railroad or telegraph companies consolidating under foregoing sections.

Consolidation with parallel or competing line prohibited.

Gen. Stats. 1883, § 362.

Stockholders may classify directors into three classes whose terms shall expire in successive years.

Gen. Stats. 1883, § 364.

Existing corporations may accept provisions of this act by filing certificate of such acceptance, adopted by vote of two-thirds of stockholders.

shall desire to consolidate with any other railroad or telegraph corporation, by virtue of the provisions of this act, a notice, as provided by section one hundred and twenty-three (123) of this act, shall be given at least thirty days before the time fixed for such meeting, and a general notice, as provided in section one hundred and twenty-three (123) shall be published for four successive weeks, provided that no railroad or telegraph company, or the lessees or managers thereof, shall consolidate its stock, property or franchise, with any other railroad or telegraph company or companies, having under its or their control a parallel or competing line of railroad or telegraph.

SEC. 129. At any meeting of the stockholders of any railroad corporation, heretofore or hereafter formed under the laws of the territory of Colorado, or of this state, for the election of directors, managers or trustees, the stockholders may classify the directors in three equal classes, as near as may be, one of which classes shall hold their office for one year, one for two years, and one for three years, and until their successors are respectively elected; and at all subsequent elections, in the event such classification shall be made, directors shall be elected for three years, to fill the places made vacant by the class whose term of office shall expire at that time.

SEC. 130. Any corporation, company, or body politic, heretofore formed or organized and existing under any special act of the legislative assembly of the Territory of Colorado, or under any of the general laws thereof, may come under, and avail themselves of the privileges and provisions of this act, whenever any such company, corporation, or body politic, shall file in the office of the secretary of state, and in the office of the recorder of deeds in the county or counties where such company, corporation, or body politic is doing business, a certificate in writing, signed by the president, and attested by the secretary of such company, corporation, or body politic, accepting the provisions of this act, and the questions of acceptance shall be adopted by a vote of two-thirds of all the stockholders of said company, corporation, or body politic, expressed at a regular

meeting of such Company, corporation, or body politic or at a meeting held for that purpose, which certificate shall express such vote. Act of Mar. 14, 1877.

SEC. 131. The general assembly may, at any time, alter, amend, or repeal, this act, and shall at all times have power to prescribe such regulations and provisions, as it may deem advisable, which regulations and provisions, shall be binding on any, and all corporations formed under the provisions of this act; *And, provided further*, that this act shall not be held to revive or extend any private charter or law, heretofore granted or passed, concerning any corporation. Gen. Stats. 1883, § 365.
Provisions of this act
subject to amendment
or repeal.

No private charter or
law extended hereby.

SEC. 132. The provisions of this act, shall not in any manner, impair the rights, or lessen the liabilities of corporations now in existence, and heretofore created under the laws of the Territory of Colorado; but such corporations are hereby recognized, and their incorporation confirmed; but nothing in this section shall be so construed as to relieve such corporations from hereafter complying with provisions of this act, in all matters relating to the conduct, control and management of any such corporations or any of the affairs of any such corporation. Gen. Stats. 1883, § 366.
This act not to impair
the rights or lessen
the liabilities of
existing corporations.

Approved, March 14, 1877.

FURTHER LEGISLATION.

The following laws have been enacted since the passage of the foregoing Act of March 14, 1877 and before the General Statutes of 1883.

LAWS OF COLORADO, 1881.

AN ACT TO PERMIT DOMESTIC CORPORATIONS DOING BUSINESS IN OTHER STATES TO ACCEPT THE LAWS OF OTHER STATES AND TERRITORIES.

Be it enacted by the General Assembly of the State of Colorado:

Corporation may
accept laws of other
state or territory or of
foreign state.

SECTION 1. It shall and may be lawful for any corporation created or existing under the laws of this State for the purpose, among others, of exercising its franchise or carrying on part of its business beyond the limits of this State, and in another state or territory of the United States or elsewhere, to accept any law of such other state or territory of the United States, or foreign state and government, and to exercise within the territory of such other state or territory, or foreign state and government, all such authorities, powers, privileges, rights and franchises as may be, by such laws conferred, subject to such duties, liabilities and restrictions as may by such laws be imposed.

Approved February 9, 1881.

LAWS OF COLORADO, 1881.

AN ACT TO AMEND CHAPTER XIX. OF THE GENERAL LAWS ENTITLED "AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS."

*Be it enacted by the General Assembly of the State of
Colorado:*

SECTION 1. Any railroad company organized or existing under the laws of this State or under the laws of an adjoining state or territory, may lease any part or all of a railroad constructed by another company in or without this State, if the lines of roads of such companies are continuous and connected, and not competing or parallel, upon such terms and conditions as may be agreed upon between the companies, subject always to the existing laws of this State on the subject of corporations; but such lease shall not be deemed to exclude the jurisdiction of this State over the control or regulation of such leased railroad.

R R. Co. of this or
adjoining state may
acquire by lease
roads continuous and
connected and not
competing or parallel.

Such lease not to
exclude jurisdiction of
State.

SEC. 2. No such lease shall be perfected until a meeting of the stockholders of each of the companies has been called for that purpose, on thirty days' notice to each stockholder, and in such manner as is provided for the annual stockholders' meetings, and the holders of at least two-thirds of the stock of each company, in person or by proxy, at such meeting assent thereto.

Required ratification
of such lease by
stockholders.

Approved February 18, 1881.

LAWS OF COLORADO, 1883.

AN ACT TO AMEND CHAPTER NINETEEN OF THE GENERAL LAWS, ENTITLED, "AN ACT FOR THE FORMATION OF CORPORATIONS" AND TO REGULATE THE CONSOLIDATION OF RAILROAD COMPANIES.

Be it enacted by the General Assembly of the State of Colorado:

What companies may consolidate.

SECTION 1. It shall and may be lawful for any railroad company, or corporation, organized or existing under the laws of this State, and whose line of road is made or is in process of construction to the boundary line of the state, or to any other point either in or out of the State, under authority of its laws, to merge and consolidate its capital stock, franchises and property into and with the capital stock, franchises and property of any other railroad company or companies, or corporations, organized and existing under the laws of any adjoining State, or Territory, whenever the two or more railroads of the companies or corporations so to be consolidated shall, or may form a continuous line of railroad with each other or by means of any intervening railroad; and roads running to the bank of a river which is not bridged, shall be held to be continuous under this section; *Provided*, that nothing in this act contained shall be taken to authorize the consolidation of any company, or corporation of this State with that of any other State or Territory, unless the laws of such other State or Territory permit, or authorize such consolidation; *Provided further*, that parallel or competing lines of railroad shall not be consolidated.

Provisions for consolidation.

SEC. 2. Said consolidation shall be made under the conditions, provisions, restrictions, and with the powers hereafter in this act mentioned and contained; that is to say:

1. The directors of the several corporations proposing to consolidate, may enter into a joint agreement, under the corporate seal of each company, for the consolidation of said companies and railroads, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers, and their places of residence, the number of shares of the capital stock, the principal place of business of the new company in each State or Territory traversed by its line of railway, and such other provisions as may be required by law to be inserted in the original certificate of incorporation, the manner of converting the capital stock of each of said companies into that of the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization, and the consolidation of said companies or railroads.

Act of Mar. 12, 1883.

Agreement for consolidation, and what it must set forth.

2. Said agreement shall be submitted to the stockholders of each of the said companies or corporations, at a meeting thereof, called separately, for the purpose of taking the same into consideration; due notices of the time and place of holding such meeting, and the object thereof, shall be given by written or printed notice, addressed to each of the persons in whose names the capital stock of said companies stands on the books thereof, and delivered to such persons respectively, or sent to them by mail, when their post office address is known to the company, and also by a general notice published in some newspaper in the city, town or county where such company had its principal office or place of business; and at the said meeting of stockholders, the agreement of the said directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote; and said ballots shall be cast in person or by proxy, and if a majority of all the votes of all the stockholders shall be for the adoption of said agreement, then that fact shall be certified thereon by the secretary of the respective companies, under the seal thereof; and the agreement so

Provisions for submission of agreement for consolidation to stockholders of consolidating companies.

Act of Mar. 12, 1883. adopted, or a certified copy thereof, shall be filed in the office of the secretary of state, and shall, from thence, be deemed and taken to be the agreement and act of consolidation of the said companies; and a copy of said agreement and act of consolidation duly certified by the secretary of state, under the seal thereof, shall be evidence of the existence of said new corporation; *Provided*, that if the mode of ratifying said agreement of consolidation in such other State or Territory shall vary from the mode herein prescribed, then such agreement may be ratified by the railroad company or corporation of such other State or Territory in the mode prescribed by the laws thereof.

**Effect of
consolidation.**

SEC. 3. Upon the making and perfecting the agreement and act of consolidation, as provided in the preceding sections, and filing the same, or a copy, with the secretary of state as aforesaid, the several corporations, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, possessing within this State all the rights, privileges and franchises, and subject to all the restrictions, disabilities and duties of each of such corporations so consolidated.

Same.

SEC. 4. Upon the consummation of said act of consolidation, as aforesaid, all and singular the rights, privileges and franchises of each of said corporations, parties to the same, and all the property, real, personal and mixed, and all debts due on whatever account, as well as all stock subscriptions and other things in action, belonging to each of such corporations shall be taken and deemed to be transferred to and vested in such new corporation without further act or deed; and all property, all rights of way, and all and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties by said agreement; and the title to real estate either by deed or otherwise under the laws of this State (or) of the United States, vested in either of such corporations, shall not be deemed to revert, or be in any way impaired by reason of this act, nor shall the lien, operation or effect of any trust deed, or mortgage heretofore executed by any of the corporations so consolidated be

in any wise divested, impaired or affected; and the new corporation shall have the right to execute any future trust deed or mortgage upon its property, as shall be provided in the agreement of consolidation, not inconsistent with the laws of this State, and all debts, liabilities and duties of either of such companies shall thenceforth attach to said new corporation, and be enforced against it, to the same extent, as if said debts, liabilities and duties had been incurred, or contracted by it. Act of Mar. 12, 1883.

SEC. 5. Such new company shall as soon as convenient after such consolidation, establish such offices as may be desired, one of which shall be at some point in this State, on the line of its road; and may change the same to any other point in this State, at pleasure, giving public notice thereof, in some newspaper published in this State. Offices of new company.

SEC. 6. If any railroad Company, organized under the laws of this State, shall consolidate with any railroad company, organized under the laws of any other State or of the United States, the same shall not therefore become a foreign corporation, but the courts of this State shall retain jurisdiction in all cases which may arise, as if said consolidation had not taken place. Where R.R. Co. consolidates with company outside of State, State courts to retain jurisdiction.

SEC. 7. That portion of the road of such consolidated company in this State, and all its real estate and other property shall be subject to like taxation, and assessed in the same manner and with like effect as property of other railroad companies within this State. Road and property of such consolidated Co. in State subject to taxation.

Approved March 12, 1883.

GENERAL STATUTES OF 1883.

In December 1883 were published the General Statutes of the State of Colorado, which incorporated the foregoing statutes. Since that time the following amendments to the said statutes have been passed.

AMENDMENTS TO THE FOREGOING ACTS.

Since the General Statutes of 1883 the following laws have been enacted amending various provisions of the foregoing statutes, or granting additional powers to corporations which are applicable to railroad companies.

LAWS OF COLORADO, 1885.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS," APPROVED MARCH 14, 1877, BEING CHAPTER NINETEEN (XIX.) OF THE GENERAL LAWS.

Be it enacted by the General Assembly of the State of Colorado :

No railroad to be constructed below or above any street or alley in any city or town without consent of local authorities.

Such consent shall not relieve R R. Co. from payment of damages.

SECTION 1. That section twenty-nine (29) of said act, being section two hundred and nineteen (219) of the General Laws, be, and the same is hereby, amended to read as follows: Section 29. Nothing in this act contained shall be construed to allow the construction of any street or other railroad, or other structure or sub-structure, for any purpose on, below or elevated above the surface of the ground of any street or alley within the limits of any such city or town, by any corporation, person or persons whomsoever, without the consent of the local authorities of such city or town; but no such consent, however enacted or expressed, on any consideration whatever, shall operate to relieve or protect any person, persons, or corporation or corporations constructing any such street or other railroad or structure or sub-structure, as aforesaid, against any claim for damages to private property, which otherwise, without such consent, might be lawfully maintained against such person or persons, corporation or corporations.

Approved March 25, 1885.

LAWS OF COLORADO, 1885.

AN ACT TO AMEND SECTION 7 OF CHAPTER XIX. OF THE
GENERAL STATUTES OF COLORADO, ENTITLED "CORPORATIONS."*Be it enacted by the General Assembly of the State of Colorado:*

SECTION 1. That section 7 of chapter XIX. of the General Statutes of Colorado, entitled "Corporations," be so amended as to read as follows: "Section 7. In case it should happen at any time that an election of directors or trustees shall not be held on the day designated by the by-laws of said company, when it ought to have been held, the company for that reason shall not be dissolved; but such directors or trustees may be chosen at any subsequent meeting of the stockholders, at which a majority of the stock is represented, such meeting to be called by the directors or trustees, or any two stockholders, by giving public notice of the time and place of holding such meeting, in the manner provided by section 6 of this chapter"; *Provided*, If a majority of such stock be not represented at the meeting so called, the same may be adjourned by the stockholders present, for a period not exceeding sixty days.

In case election of directors not held on day designated, election may be held at subsequent meeting on due notice.

SEC. 2. All acts, and parts of acts, inconsistent with this act, are hereby repealed.

SEC. 3. In the opinion of the General Assembly an emergency exists; therefore, this act shall take effect and be in force from and after its passage.

Approved March 31, 1885.

LAWS OF COLORADO, 1885.

AN ACT TO AMEND CHAPTER XIX. OF THE GENERAL STATUTES, ENTITLED "AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS."

Be it enacted by the General Assembly of the State of Colorado :

A R.R. Co. may be organized for the purpose of purchasing the property and franchises of a R.R. Co. at foreclosure sale under mortgage or decree of court.

SECTION 1. Whenever the railroads, telegraph lines, property and franchises of any railroad company, organized and existing under the laws of this State, shall be sold and conveyed under or by virtue of any power contained in any trust deed or mortgage, or pursuant to the judgment or decree of any court or competent jurisdiction, it shall be lawful to organize a railroad company under the laws of this State, for the purpose of purchasing, maintaining, operating, extending or completing the railroads and telegraph lines so sold and conveyed.

Powers of company thus organized.

SEC. 2. The railroad company so organized shall have power and authority to acquire and purchase the property and franchises so sold and conveyed, and to take, hold, exercise and enjoy all the estate, franchises, rights, powers and privileges, claim or demand in law or equity of the corporation whose property and franchises have been so sold and conveyed, and in payment of the price therefor, such railroad company may issue its capital stock and bonds, and may mortgage its property and franchises with such classification of capital stock and bonds as may be agreed upon by and between such railroad company and the parties beneficially interested, or who may have the ownership or control of such property and franchises.

Approved April 7, 1885.

LAWS OF COLORADO, 1885.

AN ACT TO AMEND CHAPTER NINETEEN OF THE GENERAL LAWS OF COLORADO, ENTITLED "AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That from and after the passage of this act, all corporations, either domestic or foreign, organized for pecuniary gain, under any of the provisions of chapter 19 of the General Laws of the State of Colorado, shall pay to the secretary of state, upon the issuing of the certificate, as provided in said chapter, the sum of ten dollars; *Provided*, The par value of the capital stock shall not exceed one hundred thousand dollars; but in case the capital stock of said corporation shall be in excess of said one hundred thousand dollars, the Secretary of State shall collect the further sum of ten cents on each and every thousand dollars of such excess.

Corporations for pecuniary gain to pay \$10 to Sec'y of State for certificate and ten cents more on every thousand dollars of capital stock over \$100,000.

SEC. 2. All acts, or parts of acts, in conflict with any of the provisions of this act, are hereby repealed.

Approved April 10, 1885.

LAWS OF COLORADO, 1889.

AN ACT TO AMEND SECTION FIVE OF CHAPTER XIX., THE SAME BEING GENERAL SECTION TWO HUNDRED AND FORTY-ONE OF THE GENERAL STATUTES OF THE STATE OF COLORADO, ENTITLED "CORPORATIONS."

Be it enacted by the General Assembly of the State of Colorado:

**Capital stock and
subscriptions therefor.**

SECTION 1. That section five of an act to provide for the formation of corporations, being general section two hundred and forty-one of the General Statutes of the State of Colorado, is hereby repealed, and the following shall stand in lieu thereof as section two hundred and forty-one: The shares of stock shall not be less than one dollar nor more than one hundred dollars each, and shall be deemed personal property and transferable as such in the manner provided by the by-laws, and subscriptions therefor shall be made payable to the corporation, and shall be payable in such instalments and at such time or times as shall be determined by the directors or trustees; and an action may be maintained in the name of the corporation to recover any instalment which shall remain due and unpaid for the period of twenty days after personal demand therefor, or, in case where personal demand is not made within thirty days after, a written or printed demand has been deposited in the post office, properly addressed to the post office address of such delinquent stockholder. The directors or trustees may by by-laws prescribe for a forfeiture or sale of stock on failure to pay the instalments or assessments that may from time to time become due, but no forfeiture of stock, or of the amount paid thereon, shall be declared as against any estate or against any stockholder before demand shall have been made for the amount due thereon, either in person or by written or printed notice duly mailed to the last known address of such stockholder, at least thirty days prior to the time when such forfeiture is to take effect; *Provided*, That the proceeds of any sale, over and above the amount due on said shares, shall be paid to the delinquent stockholder.

**Forfeiture for
non-payment of
assessments.**

Approved February 20, 1889.

LAWS OF COLORADO, 1889.

AN ACT TO AMEND SECTION ONE HUNDRED AND ONE OF CHAPTER XIX. OF THE GENERAL STATUTES OF THE STATE OF COLORADO, ENTITLED "CORPORATIONS," THE SAME BEING GENERAL SECTION THREE HUNDRED AND THIRTY-SEVEN THEREOF.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one hundred and thirteen of an act entitled "An act to provide for the formation of corporations," approved March 14, 1877, the same being section three hundred thirty seven of the General Statutes of Colorado, be and the same is hereby amended to read as follows: 337. Sec. 101 (113). If any railway corporation organized under this act shall not, within two years after its articles of association shall be filed and recorded, as provided in the second section of this act, begin the construction of its road, and expend thereon twenty per cent. of the amount of its capital within five years after the date of its organization, its corporate existence and power shall cease; *Provided*, That any such railway corporation may at any time reduce its capital stock in manner and form as provided by the laws of this State, and if twenty per cent. of the amount of its capital, as so reduced, shall have at any time been expended in good faith in the construction of its road, then its corporate existence and power shall not cease or be deemed to have ceased.

Approved April 20, 1889.

R.R. Co. to begin construction within 2 years and expend 20% of capital within 5 years, or cease to exist.

But may reduce capital stock in a lawful manner, and expend only 20% of reduced capital.

LAWS OF COLORADO, 1889.

AN ACT TO AUTHORIZE CORPORATIONS TO CONVEY REAL
ESTATE BY ATTORNEY.

*Be it enacted by the General Assembly of the State of
Colorado:*

Corporations may by
written powers
appoint agents or
attorneys to convey
real estate.

SECTION 1. That corporations, domestic or foreign, may, by written powers executed in the manner provided for the conveyance of real estate by corporations, appoint agents or attorneys in fact to convey their real estate; and all conveyances executed by such agents or attorneys in fact in the name of the corporation, shall pass the legal title of such corporation to the real estate thereby conveyed, as effectually as if such conveyances had been executed by the corporation in the manner provided by law for the conveyance of real estate by corporations; and it shall not be necessary to affix the seal of the corporation to any conveyance so executed by such agent or attorney in fact.

SEC. 2. Whereas in the opinion of the General Assembly an emergency exists; therefore, this act shall be in force from and after its passage.

Approved April 8, 1889.

For rights acquired by The Pueblo and Arkansas Valley Railroad Company, together with the Atchison Company and the Pueblo and State Line Railroad Company, to use certain tracks of the Denver, Texas and Fort Worth Railroad Company under Agreement of May 18, 1888, see *post*, p. 332.

PUEBLO COUNTY AID

TO

THE PUEBLO AND SALT LAKE R'Y CO.

The Board met pursuant to adjournment at the Court House, Tuesday October 6th A.D. 1874. Present: George W. Hepburn, Chairman, Samuel S. Sease, Commissioner, Benjamin F. Field, Commissioner, Henry C. Thatcher, Acting County Attorney, Sam. McBride, Clerk. By Geo. J. Dunbaugh, Deputy.

**Meeting of Board of
County Commissioners
of Pueblo County,
Oct. 6, 1874.**

Messrs. H. C. Thatcher and Wilbur F. Stone appeared and on behalf of the Pueblo and Salt Lake Railway Company asked that the Board immediately order the cancellation of the old Bonds of the County of Pueblo, voted to the said Railway Company on the Third day of March A.D. 1874, and also that they order new Bonds engraved at once.

**Request of P. & S. L.
Ry. Co. that Board
order cancellation
of bonds voted on
Mar. 3, 1874, and make
new subscription
of \$350,000.**

They further asked that the Board make a formal subscription of the Three Hundred and Fifty Thousand Dollars to said Company in accordance with the vote of August 22nd A.D. 1874: Whereupon it was Ordered that the Clerk write to the Pueblo and Salt Lake Railway Company informing them that the Board of County Commissioners are ready to make the new subscription upon the cancellation of the old. It was further Ordered, that the County Clerk make the entry on the Company's books, of the formal subscription of Three Hundred and Fifty Thousand Dollars to the capital stock of said Pueblo and Salt Lake Railway Company in accordance with the conditions of the vote of August 22nd A.D. 1874, thereafter to be signed by the members of this Board.

**Order that clerk
notify Ry. Co. of
readiness to make
new subscription on
cancellation of old.**

**Order authorizing
new subscription.**

The Board met pursuant to adjournment at two o'clock P.M. all the members of the Board present.

Adjourned meeting.

The following proceedings were had:

Pueblo County Aid
to P. & S. L. Ry. Co.

The Secretary of the Pueblo and Salt Lake Railway Company presented and there was filed the following certified copy of a resolution adopted by said Railway Company.

Adjourned meeting
of Board of County
Commissioners.

At a meeting of the Board of Directors of the Pueblo and Salt Lake Railway Company, held October 6th, 1874, the following resolution was offered and adopted.

Certified copy of vote
of Directors of
P. & S. L. Ry. Co.
presented.

WHEREAS, the proposition upon which bonds of the County of Pueblo in the sum of three hundred and fifty thousand dollars was heretofore voted to the Pueblo and Salt Lake Railway Company, to wit on the 3d day of March 1874, and the subscription by the County of Pueblo in said sum to the capital stock of said Company made in accordance therewith has been supplemented by the subsequent proposition upon which a like amount of the bonds of said County were voted to said Company on the 22nd day of August 1874, and in accordance with which the first bonds and the subscription of the County of Pueblo to the capital stock of said Company was to be abrogated and cancelled, and

WHEREAS, the Board of County Commissioners of said County have at a regular meeting of said Board, on this day ordered the cancellation of said bonds so voted as aforesaid, and have ordered a new formal subscription to the Capital Stock of said Railway Company, in accordance with the last named proposition, therefore,

Resolved, That the subscription of the County of Pueblo to the capital stock of the said Pueblo and Salt Lake Railway Company, first made to wit, on the 21st day of April 1874, be and the same is hereby ordered cancelled, and to be of no effect.

I hereby certify that the foregoing is a correct copy of a resolution offered and adopted at a meeting of the Board of Directors of the Pueblo and Salt Lake Railway Company, held October 6th, 1874 and that the same appears entered on the minutes of the meeting held as of that date.

CHAS. E. GAST,

Sec'y.

[SEAL OF THE
P. & S. L. R. Co.]

Whereupon Charles E. Gast Secretary of said Company, presented to the Board of County Commissioners the Stock Book of said Railway Company, asking that the formal subscription to the capital stock of said Company be entered therein, in compliance with the order made by said Board this A.M. It was unanimously resolved by the Board that such subscription be made in words and figures following, to wit:

Pueblo County Aid to
P. & S. L. Ry. Co.

Unanimous vote to
make subscription.

WHEREAS a petition was presented to the Board of County Commissioners of Pueblo County signed by the requisite number of qualified voters of Pueblo County, in due form petitioning the Board of County Commissioners of Pueblo County to call an election to approve or disapprove a subscription by said Board of County Commissioners in the name for and in behalf of, Pueblo County to the capital stock of the Pueblo and Salt Lake Railway Company in the sum of Three Hundred and Fifty Thousand Dollars, in accordance with and upon the terms contained in a proposition submitted to the said Board of County Commissioners by the said Pueblo and Salt Lake Railway Company and contained in the call for a special election duly published, which said terms are hereinafter more particularly described:

Recital as to petition
for an election.

AND WHEREAS, the Board of County Commissioners of Pueblo County did in pursuance of such petition call an election to be held August 22nd 1874, and submit the question of approval or disapproval of such subscription as aforesaid to the electors of Pueblo County:

As to call of election.

AND WHEREAS, in accordance with such call duly published in conformity with the Statute in such case made and provided an election was had as provided by law and it appearing to the Board of County Commissioners upon a return of the report of the Board of Canvassers of such election as aforesaid that a majority of the votes cast at said election are in favor of such subscription as aforesaid:

As to result of
election.

AND WHEREAS, the subscription of a like amount to the capital stock of the Pueblo and Salt Lake Railway Company made by the Board of Commissioners of Pueblo

As to cancellation of
former subscription.

Pueblo County Aid
to P. & S. L. Ry. Co.

County on the 21st day of April A.D. 1874 has been cancelled and ordered to be stricken from the Stock Book of the Company by the Board of Trustees of said Railway Company,

Resolution of
Board of County
Commissioners,
to subscribe for
3,500 shares of
capital stock of
P. & S. L. Ry. Co.

THEREFORE, *RESOLVED*, by the Board of County Commissioners of Pueblo County, that the said Board of County Commissioners in the name, and for, and in behalf of the said Pueblo County do subscribe to Three Thousand Five Hundred (3,500) shares of the capital stock of the Pueblo and Salt Lake Railway Company of the par value of One Hundred (100) Dollars each,—

And pay for the same
in bonds of the county
as enumerated and
described.

Said subscription to be paid for by the issue and delivery of bonds of the County of Pueblo of the following denominations, to wit: One Hundred and Seventy five bonds of the denomination of One Thousand Dollars each, One Hundred and Seventy five bonds of the denomination of Five Hundred Dollars each, and Eight Hundred and Seventy five of the denomination of One Hundred Dollars each, making Three Hundred and Fifty Thousand Dollars in the aggregate. Said Bonds to be executed and dated on the day of the formal subscription made by the Commissioners of this County to the stock of said Railway Company, and to run for a period of thirty years from that date, bearing interest at the rate of Eight per cent per annum from October 21st A.D. 1875, until paid, payable annually on the first day of May in each year thereafter.

The interest coupons attached to said bonds shall state upon their face that they are payable in lawful money of the United States, when due, either in the City of London, England; Amsterdam, Holland; in the City of New York, or at the office of the Treasurer of Pueblo County at the option of the holder: and that the said coupons are receivable at par when due for any and all taxes of Pueblo County.

Bonds to be deposited
in trust with First
Nat. Bank of Pueblo.

That upon the execution of said bonds (which shall be as soon as practicable after the ratification and acceptance of this proposition) by the proper officers of the County they shall be deposited in trust, with the First National

Bank of Pueblo, Colorado, as trustee, who shall deliver the same to said Railway Company in the manner following and on compliance with the following conditions or terms.

First: There shall be an auditing Board created to consist of four persons one of whom shall be elected by and out of the Board of Directors of said Railway Company, two by and out of the Board of County Commissioners, and one by and out of the City Council of the City of Pueblo, the duty of which shall be to audit and allow all claims for work and materials furnished for the grading, bridging, tying and otherwise constructing the roadbed.

Second: Said Trustee shall deliver the bonds of the said County to the Railway Company as the work of construction progresses in amounts proportionate to the value of work done, and materials furnished such value to be ascertained and allowed by the said auditing Board, who shall meet on the fifth day of each month and audit all claims for the preceding month, provided that said bonds shall not be paid out at less than eighty per cent. of their face value.

Third: That on the completion of said Railway said Company shall on the line of its said road establish such freight and passenger depots as may be necessary for the transaction of business, in the City of Pueblo and maintain the same within one mile of the Court House in said City, said depot to be located on or before the 21st day of October A.D. 1875.

Fourth: That the certificates of stock to the amount of Three Hundred and Fifty Thousand Dollars (\$350,000) of the Pueblo and Salt Lake Railway Company shall likewise be placed in the hands of the said First National Bank of Pueblo as trustee and on the compliance with the conditional terms herein imposed on said Company, said trustee shall deliver said three hundred and fifty thousand dollars of bonds to said Railway Company and said three hundred and fifty thousand dollars of the stock of said Company to Pueblo County.

Fifth: The track shall be laid on said Railway from the City of Pueblo in Pueblo County to either West Las Animas or Granada, in Bent County Colorado Territory at

Pueblo County Aid to
P. & S. L. Ry. Co.
Conditions of delivery.

Auditing Board and
its duties.

Bonds to be delivered
on accounts allowed
by Auditing Board
each month.

Bonds not to be paid
out at less than 80%
of face value.

Ry. Co. to establish
necessary freight and
passenger depots in
city of Pueblo within
one mile of Court
House.

Certificates for
\$350,000 of stock of
P. & S. L. Ry. Co. to
be likewise deposited
with same bank as
trustee.

As to laying track
between Pueblo and
West Las Animas or
Granada.

Pueblo County Aid to the option of said Company of the same gauge as that of
P. & S. L. Ry. Co. the Arkansas Valley Railway.

On delivery of the
\$350,000 of new county
bonds, the former
bonds to be returned
for cancellation.

Sixth: In the event of the issue and delivery of the said three hundred and fifty thousand dollars of the bonds of Pueblo County to the trustee aforesaid the bonds heretofore voted shall be returned by said trustee to the Board of County Commissioners of said County for cancellation and the certificate of stock heretofore issued and delivered to said trustee shall be returned to said Railway Company for cancellation.

Attesting clause.

IN TESTIMONY WHEREOF, witness the signatures of the Board of Commissioners of Pueblo County duly attested by the Clerk of said Board under the seal of said County, this Sixth day of October A.D. 1874.

G. W. HEPBURN, *Chairman,*
S. S. SEASE,
BENJ. B. FIELD,
Board of Commissioners of
Pueblo County Colorado.

Attest:

SAM McBRIDE,
Clerk.

[PUEBLO COUNTY
"SEAL OF" 1866
COLORADO.]

It was further

Rescission of order
authorizing former
subscription.

Resolved, that the order entered of record among the proceedings of this Board on the 21st day of April A.D. 1874 making the old formal subscription of \$350,000 to the Pueblo and Salt Lake Railway Company be and the same is hereby rescinded.

On motion it was

County Clerk
authorized to prepare
the new bonds.

Ordered That the County Clerk be and is hereby instructed to procure at the earliest day possible, the requisite number of bonds (from the same firm, and of the style as the old bonds) for the purpose of making the new subscription.

Burning of the former
bonds.

The Board then proceeded to burn the three hundred and

fifty thousand dollars in Pueblo County Bonds heretofore issued to the Pueblo and Salt Lake Railway Company, and which had been surrendered on account of new subscription.

Pueblo County Aid to
P. & S. L. Ry. Co.

STATE OF COLORADO, }
COUNTY OF PUEBLO, } ss.

Certificate of County
Clerk as to correctness
of copy of proceedings.

I, C. D. Henderson, County Clerk in and for the County and State aforesaid do hereby certify that the foregoing is a true, full and complete copy of the proceedings of the Board of County Commissioners in and for said County, had and done on the 6th day of October A.D. 1874, in relation to the matter of the subscription of \$350,000 of the Capital Stock of the Pueblo and Salt Lake Railway Company, as appears from Commissioners Record No. 2 pages 20-1-2-3-4-5-6, now in my office.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of said County this 24th day of March A.D. 1892.

C. D. HENDERSON,

[SEAL]

County Clerk.

By W. B. MOORE,

Deputy.

BENT COUNTY AID

TO THE

COLORADO AND NEW MEXICO RAILROAD CO.

**Bent County Bonds
for \$150,000 received
by C. & N. M. R.R. Co.**

The Colorado and New Mexico Railroad Company received a subscription of \$150,000 from Bent County. The fact that the county bonds to this amount were received appears from the settlement made between The Pueblo and Arkansas Valley Railroad Company (II.) and the Commonwealth Contract Company, which is printed on page 189.

**Records of Bent
County destroyed
by fire.**

No certified documents relating to this subscription, or the votes of the County authorizing the same, can be procured as all the records of said Bent County were destroyed by fire on or about January 9, 1888, as appears by the Certificate hereinafter printed.

**Newspaper notice
of election.**

There is pasted in the record book of the Colorado and New Mexico Railroad Company a newspaper clipping which purports to be a notice of an election to be held in Bent County to vote upon the issuing of the said bonds. But there is no document preserved purporting to be a copy of the result of the said election or of the subscription of the said County thereunder.

CERTIFICATE OF COUNTY CLERK OF BENT COUNTY

AS TO THE DESTRUCTION OF THE RECORDS OF SAID BENT COUNTY.

LAS ANIMAS, COLO.

**Certificate of County
Clerk as to destruction
by fire of Bent County
records.**

STATE OF COLORADO, }
BENT COUNTY, } ss.

This is to certify that on or about January 9th A.D. 1888 the Court House of Bent County Colorado was destroyed by fire and all the records of Bent County were destroyed by said fire.

IN WITNESS WHEREOF I have hereunto set my hand and the Seal of said County at Las Animas, Colorado this 23d day of March A.D. 1892.

Bent County Aid to
C. & N. M. R.R. Co.

[SEAL]

H. FREY,
Co. Clerk, Bent County, Colo.

COPY OF NEWSPAPER CLIPPING MENTIONED ABOVE.

ELECTION NOTICE.

WHEREAS, the Colorado and New Mexico Railroad Company, a corporation organized under the laws of Colorado Territory, has promised and agreed to and with the Board of County Commissioners of the county of Bent to construct and extend its railway from the present terminus at Granada to a point within one hundred and twenty five rods of the intersection of the main track of the Arkansas Valley Railway with Bent Avenue, in the town of West Las Animas, Bent County, Colorado, provided that a tract of land for depot purposes and right of way twenty-five rods wide and one hundred and fifty-four rods long shall be secured to said Colorado and New Mexico Railroad Company free of cost—a deed from the patentees or their assigns being accepted as sufficient title; but in case the above described tract of land for depot purposes and right of way is not secured free of cost to said Colorado and New Mexico Railroad Company within thirty days after the bonds shall have been voted by said Bent County to the said railroad company then said Colorado and New Mexico Railroad Company shall build suitable depot, freight houses and side tracks within one mile of the point of intersection of the main track of the Arkansas Valley Railway with Bent Avenue in the town of West Las Animas, Colorado, and to construct such freight and passenger depots as may be necessary for the transaction of the business, as is agreed herein to be built by the said Company, said railroad to be of the same gauge as that of the Atchison, Topeka and Santa Fe Railroad, and to be

Recital as to
agreement of
C. & N. M. R.R. Co.
as to construction of
track and terminal
buildings.

Bent County Aid to
C. & N. M. R.R. Co.

built and completed ready for the running of cars by the first day of January 1876.

Foregoing agreement
of R.R. Co. conditional
on subscription of
Bent County, 1,500
shares of stocks

PROVIDED, the said County of Bent shall subscribe to fifteen hundred shares of the capital stock of the Colorado and New Mexico Railroad Company of the par value of one hundred dollars each, said subscription to be paid for by the issue and delivery of bonds of the county of Bent of the aggregate par value of one hundred and fifty thousand dollars;

Resolution of
Board of County
Commissioners to
make such
subscription and
pay the same in
County Bonds.

THEREFORE, by the Board of County Commissioners of the County of Bent, be it

RESOLVED, That the County of Bent do subscribe to fifteen hundred shares of the capital stock of the Colorado and New Mexico Railroad Company of the par value of one hundred dollars each, amounting in the aggregate to the sum of one hundred and fifty thousand dollars, said subscription to be paid for by the issue and delivery of bonds of the County of Bent of the following denominations, to-wit; two hundred bonds of the denomination of one hundred dollars each, one hundred bonds of the denomination of five hundred dollars each, and eighty bonds of the denomination of one thousand dollars each, making in the aggregate the sum of one hundred and fifty thousand dollars; said bonds to be executed and dated on the day of the formal subscription made by the Board of Commissioners of the County of Bent to the stock of the Colorado and New Mexico Railroad Company and to run for a period of thirty years from that date, and bearing interest at the rate of eight per cent per annum from the first day of October 1875, until paid, payable semi-annually on the first day of January and July in each year thereafter; the interest coupons attached to said bonds shall state on their face that they are payable in lawful money of the United States when due at the office of the Treasurer of Bent County, Colorado or at such other place as the said railroad company and the said Board of County Commissioners may hereafter agree; and that the said coupons are receivable at par when due for all and any taxes of the County of Bent.

Bonds to be deposited
in trust with Colorado
Nat. Bank.

That, upon the execution of said bonds (which shall be

as soon as practicable after the ratification and acceptance of this proposition) by the proper officers of the county, they shall be deposited in trust with the Colorado National Bank, at Denver, Colorado, as trustee, who shall deliver the same to the said Railroad Company, after said Railroad Company shall have given a good and sufficient bond in the sum of one hundred and fifty thousand dollars to the Board of County Commissioners of the County of Bent, to be approved by said board, conditioned as follows:

Bent County Aid to
C. & N. M. R.R. Co

Bonds to be delivered
when R. R. Co. gives
sufficient bond for
\$150,000 conditioned
as follows:

I. That the said Colorado and New Mexico Railroad shall be built and in running order to a point within two hundred and twenty five rods of the intersection of the main track of the Arkansas Valley Railway with Bent Avenue in the town of West Las Animas, Bent County, Colorado, *Provided*, That a tract of land for depot purposes and right of way twenty-five rods long shall be secured to said Colorado and New Mexico Railroad Company free of cost, a deed from the patentees or their assigns being accepted as sufficient title; but in case the above described tract of land, for depot purposes and right of way, is not secured free of cost to said Colorado and New Mexico Railroad Company within thirty days after the bonds shall have been voted by said Bent County to the said Railroad Company, then said Colorado and New Mexico Railroad Company shall build suitable depot and freight houses and side tracks within one mile of the point of intersection of the main track of the Arkansas Valley Railway with Bent Avenue in the town of West Las Animas, Colorado, on or before the first day of January, 1876; and the said railroad shall also be built and completed to a connection with the Pueblo and Salt Lake Railroad to a point within either of the above described limits in which said depot, freight houses and side tracks shall have been located, by said day.

Condition of bond of
R. R. Co. as to
construction of track
and terminals.

II. That the said Colorado and New Mexico Railroad Company shall construct and complete suitable, convenient and sufficient freight and passenger depots and provide sufficient sidings at the following points on the line of said road, to-wit: at a point at or near the town of Las Animas,

Further condition
as to terminals

Bent County Aid to
C. & N. M. R.R. Co.

in the county of Bent, and within one-half of one mile of the south end of the present Fort Lyon bridge across the Arkansas River; and also at a point within one-hundred and twenty-five rods of the intersection of the main track of the Arkansas Valley Railway with Bent Avenue in the town of West Las Animas, Bent County, Colorado — *Provided*, That a tract of land, for depot purposes and right of way, twenty-five rods wide and one hundred and fifty-four rods long shall be secured to said Colorado and New Mexico Railroad Company free of cost, a deed from the patentees or their assigns being accepted as sufficient title; but in case the above described tract of land, for depot purposes and right of way, is not secured free of cost to said Colorado and New Mexico Railroad Company within thirty days after the bonds shall have been voted by said Bent County to the said Railroad Company, then said Colorado and New Mexico Railroad Company shall build suitable depot, freight houses and side tracks within one mile of the point of intersection of the main track of the Arkansas Valley Railway and Bent Avenue in the town of West Las Animas, Colorado, and also at such other points along the line of said railroads as the business of the said railroad may require.

Penalty for non-
performance of
foregoing conditions.

III. That if the said railroad is not so built and completed by said day, and said depots built and completed, that the said railroad will reimburse and pay to said Bent County the costs of the election hereinafter ordered.

R.R. Co. to reimburse
county for interest
accruing prior to
completion of
road and terminals

IV. That the said railroad shall reimburse the said county of Bent for any interest accruing on said bonds prior to the completion of said road and the building of said depots as aforesaid.

Gauge of track.

V. That the gauge of the track to be adopted from Granada to a point within the above described limits shall be of the same gauge as the Atchison, Topeka and Santa Fe Railroad.

Construction to begin
May 1, 1875, and to be
completed Jan. 1, 1876.

VI. That the construction of said road shall commence on or before the first day of May, 1875, and continue until completed on the first day of January 1876.

Manner of delivery
of bonds.

The said bonds of the County of Bent shall be subject to and deliverable to the said railroad company in the manner

following, and on compliance with the following conditional terms, to-wit:

Bent County Aid to
Col. & N. M. R.R. Co.

FIRST. There shall be an auditing board, to consist of three persons, one of whom shall be elected by and out of the board of County Commissioners of Bent County, and two by and out of the board of trustees of said railroad company and its successors and assigns, the duty of which shall be to audit and allow all claims for work done and materials furnished for the grading, bridging, tying, and otherwise constructing the road bed.

Auditing Board.

SECOND. Said trustees for said bonds shall deliver the bonds of the said county to the said railroad company as the work of construction progresses in amounts proportionate to the work done and materials furnished, the value of which is to be ascertained, allowed and certified by the said auditing board, or a majority thereof, who shall meet on the fifteenth day of each month at Las Animas, in said county, and audit all claims for the month preceding; *Provided*, that said bonds shall not be paid out at less than eighty per cent of their par value.

Bonds to be delivered
on accounts allowed
by Auditing Board
each month.

Bonds not to be paid
out at less than 80%
of par value.

THIRD. That the certificate of stock to the amount of one hundred and fifty thousand dollars of the Colorado & New Mexico Railroad Company shall likewise be placed in the hands of the said Colorado National Bank, as trustee, and on compliance with and in accordance to the conditional terms herein imposed on said railroad company said trustee shall deliver said one hundred and fifty thousand dollars of bonds to said railroad company, and shall deliver to said county of Bent, its successors and assigns, said one hundred and fifty thousand dollars of stock of the said railroad company.

Certificate of stock
for \$150,000 to be
likewise deposited
with same bank as
trustee, to be delivered
on performance of
agreements.

AND WHEREAS, The requisite number of qualified voters of the county of Bent, to wit: two hundred and thirty, have in due form petitioned the board of County Commissioners of said county to call a special election to approve and vote said subscription of stock and authorize the issue of said bonds in payment; therefore

Petition for election.

BE IT ORDERED, That a special election be held on Tuesday, the sixteenth day of March, 1875, at the several

Election ordered.

**Bent County Aid to
C. & N. M. R.R. Co.**

voting places in the county of Bent, to approve said subscription of stock and to authorize the issue of said bonds of Bent county on the conditions and in the manner aforesaid;

Forms of ballots.

That at said Special Election all legal voters who are in favor of said subscription and the issue of said bonds, shall deposit each ballot with the words "For the Bonds" written or printed thereon; and those who are opposed to said subscription and issue of bonds, shall deposit each ballot with the words "Against the Bonds" written or printed thereon. If upon canvassing the votes cast at said Special Election, it shall be found that a majority of all the votes cast are in favor of said subscription of stock and issue of said bonds, then the County Commissioners of Bent County shall formally subscribe one hundred and fifty thousand dollars to the capital stock of said railroad company and shall issue the bonds of said county to the amount of one hundred and fifty thousand dollars in manner aforesaid and in accordance with the terms and conditions herein set forth.

**If canvassing shows
majority in favor,
subscription to be
made.**

Dated Feb. 8, 1875.

Done at Las Animas, in Bent County, this eighth day of February, A.D. 1875.

By order of the Board of County Commissioners of Bent County.

Attest:

[SEAL]

RICHARD SIMPSON,
County Clerk.

CAPITAL STOCK.

The capital stock of The Pueblo and Arkansas Valley Railroad Company (II.), created by Articles of Consolidation on September 29, 1875, was by the said Articles fixed at \$3,000,000. On July 13th, 1875 it was increased to \$6,000,000.

Capital stock of
P. & A. V. (II.)
\$3,000,000.
Increased to \$6,000,000.

The present Company, viz: The Pueblo and Arkansas Valley Railroad Company (III.), was created by Articles of Consolidation on September 12, 1878. The capital stock was fixed by the Articles of Consolidation at the sum of the capital stocks of the consolidating companies, viz: at \$6,100,000. On June 2d, 1879 it was increased to \$6,500,000, which is the present capital stock of the corporation, the amount of said stock outstanding being \$5,616,200.

Capital stock of
P. & A. V. (III.)
\$6,100,000.
Increased to \$6,500,000.
Outstanding amount
\$5,616,200.

INCREASE OF CAPITAL STOCK
OF
**THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY (II.)**
TO
SIX MILLION DOLLARS.

Stockholders' meeting EXTRACT FROM THE RECORD OF AN ADJOURNED ANNUAL
P. & A. V. (II.) MEETING OF THE STOCKHOLDERS OF THE PUEBLO AND
July 10, 1878. ARKANSAS VALLEY RAILROAD COMPANY (II.), HELD AT
PUEBLO, COLORADO, ON JULY 10, 1878.

Mr. M. D. Thatcher submitted for the consideration of the meeting the following preambles and resolutions:

Entire authorized capital fully paid and outstanding.

WHEREAS the entire capital stock of the Company as the same is at present limited and fixed has been subscribed is full paid and now outstanding, and

Additional capital stock needed.

WHEREAS the Company is now extending its line of road and needs additional capital stock for such purpose,

Resolution to increase capital stock from \$3,000,000 to \$6,000,000.

THEREFORE BE IT RESOLVED, That the capital stock of the Company be and the same is hereby increased from Three Million (3,000,000) to Six Million Dollars (\$6,000,000) consisting of sixty thousand (60,000) shares of the par value of one hundred dollars (\$100) each, and that the President and Secretary are hereby authorized and directed to file the necessary certificates and make the necessary publication to effectuate the said increase according to law.

President and Secretary authorized to file certificates and make publication.

Stock vote on foregoing resolution.

The resolution was seconded by Mr. J. V. Andrews and a vote was taken upon it by ballot resulting in twenty three thousand eight hundred and six (23,806) shares being voted in favor of it and five thousand (5,000) against it, Mr. Gann and Mr. Andrews acting as tellers. The same was thereupon declared adopted by more than three-fourths ($\frac{3}{4}$) in value of the entire capital stock of the Company.

CERTIFICATE OF INCREASE OF
CAPITAL STOCK

OF

THE PUEBLO AND ARKANSAS VALLEY
R.R. CO. (II.).

BOSTON, MASS., July 10, 1878.

THIS IS TO CERTIFY that an adjourned annual meeting of the stockholders of the Pueblo and Arkansas Valley Railroad Company was held at the office of the Company in the City of Pueblo, State of Colorado on Wednesday July 10th, 1878. That the meeting convened at 4 o'clock P.M. pursuant to a resolution of the Stockholders passed at the regular annual meeting held on May 11th, 1878, adjourning the said meeting to the day aforesaid. That among other proceedings the following were had and done and entered of record:

Certificate of increase
of capital stock by
P. & A. V. (II.) from
\$3,000,000 to \$6,000,000.

The Secretary submitted proofs that in addition to the resolution aforesaid each Stockholder had received special notice of the meeting and of the objects thereof by depositing a notice of the same in the Post Office directed to his usual place of residence more than thirty (30) days before the time fixed for the meeting.

Upon a call of the stockholders it was found that Twenty eight Thousand eight hundred and six, (28,806), shares were represented in person or by proxy.

The following was then submitted for the consideration of the meeting:

Whereas, the entire capital stock of the Company as the same is at present limited and fixed has been subscribed, is full paid and none outstanding,

And whereas, the Company is now extending its line of road and needs additional capital stock for such purpose,

Certificate of increase
of capital stock
to P & A. V. (11.)
from \$3,000,000 to
\$6,000,000.

THEREFORE BE IT RESOLVED, that the capital stock of the Company be and the same is hereby increased from three million, (3,000,000) to six million dollars, (6,000,000), consisting of sixty thousand, (60,000), shares of the par value of One Hundred Dollars (\$100), each, and that the President and Secretary are hereby authorized and directed to file the necessary certificates and make the necessary publication to effectuate the said increase according to law.

The Resolution was seconded and a vote taken upon it by ballot resulting in Twenty three Thousand eight hundred and six, (23,806), shares being in favor of it and five thousand, (5000), against it.

The Resolution was thereupon declared adopted by more than three fourths, ($\frac{3}{4}$), in value of the entire capital stock of the Company.

This Certificate is filed in accordance with the provisions of Section 125, of an Act of the Colorado Legislature entitled, "An Act to provide for the formation of Corporations," Approved March 14th, 1877.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

By JOS. NICKERSON,

[SEAL]

President.

Attest:

M. D. THATCHER,

Secretary.

STATE OF MASSACHUSETTS, }
CITY OF BOSTON, } ss.

Affidavit of President
of R.R. Co. to truth
of foregoing
certificate.

BE IT REMEMBERED that on this Nineteenth day of July A.D. 1878 before me a Commissioner of the State of Colorado, residing in Boston, qualified to take affidavits, &c., personally appeared Joseph Nickerson President of the Pueblo and Arkansas Valley Railroad Company who being first duly sworn did depose and say: that the facts set forth in the foregoing Certificate are true and correct.

Given under my hand and official seal this Nineteenth
day of July A.D. 1878.

[SEAL] SAMUEL JENNISON,
Commissioner for Colorado, in Boston.

Sam'l Jennison Attorney at Law,
Commissioner for all the states and
Notary Public,
186 Washington Street, Boston.

(INDORSED.)

Pueblo and Arkansas Valley Railroad Company
Filed in the office of the Secretary of State July 30 1878
at 9.30 o'clock A.M., and recorded in Book 13 Page 42.
Certificate of Increase of Capital Stock, \$200.

Indorsements of
filing and recording
of foregoing
certificate.

WM. M. CLARK,
Secretary of State.

STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Secretary of State.

I, E. J. Eaton, Secretary of State, of the State of Colo-
rado, do hereby certify that the annexed is a full, true and
complete transcript of the Certificate of Increase of Capital
Stock of The Pueblo and Arkansas Valley Railroad Com-
pany which was filed in this Office the Thirteenth day of
July A.D. 1878, at 9.30 o'clock A.M., and admitted to
record.

Certificate filed
July 13, 1878.

IN TESTIMONY WHEREOF, I have hereunto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this Sixteenth day of March A.D. 1892.

[SEAL] E. J. EATON,
Secretary of State.

INCREASE OF CAPITAL STOCK
OF
**THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY (III.)**
TO
**SIX MILLION FIVE HUNDRED
THOUSAND DOLLARS.**

Stockholders'
meeting P. & A. V.
(III.) May 10, 1879.

EXTRACT FROM THE RECORD OF AN ANNUAL MEETING OF THE
STOCKHOLDERS OF THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY (III.), HELD AT PUEBLO, COLORADO,
ON MAY 10, 1879.

The following resolution was then offered by Alden
Speare:

Resolution to increase
capital stock from
\$6,100,000 to
\$6,500,000.

RESOLVED, That the necessities of the Company require
an increase of its present capital stock from \$6,100,000 to
\$6,500,000 consisting of 65,000 shares at one hundred
dollars each, and that the same is hereby declared increased
accordingly.

Stock vote on
foregoing resolution.

A stock vote was taken upon the foregoing resolution
and it was found that 47,774 shares were cast in its favor
and none against it.

The resolution was thereupon declared adopted by a vote
exceeding in amount three-fourths of the entire capital
stock of the Company.

On motion of M. D. Thatcher the President was directed
to execute the necessary certificate to be filed of record.

**CERTIFICATE OF INCREASE OF
CAPITAL STOCK**

OF

**THE PUEBLO AND ARKANSAS VALLEY
R.R. CO. (III.).**

BOSTON, MASS., May 23rd, 1879.

THIS IS TO CERTIFY that at the annual meeting of the Stockholders of the Pueblo and Arkansas Valley Railroad Company held at the office of the said Company in Pueblo, Colorado, on the 10th day of May 1879, among other things, the following proceedings were had and done, to wit:

*Certificate of increase
of capital stock of
P. & A. V. (III.) from
\$6,100,000 to
\$6,500,000.*

The Secretary submitted proof that a copy of the call for the meeting had been mailed to each Stockholder at his last known Post address more than thirty days prior to the meeting, and that the same was also published in the Daily Pueblo Chieftain for more than thirty days prior to the meeting. The call was read, and is in words and figures, as follows:

"Notice is hereby given that the regular Annual Meeting of the Stockholders of the PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY will be held at the office of the Company in the City of Pueblo, Colorado, on Saturday, May 10th, 1879, at one o'clock P.M., at which meeting directors will be elected for the ensuing year, and action taken to increase the Capital Stock of the Company from \$6,100,000 to \$6,500,000, and for the transaction of such further business as may properly come before the meeting."

M. D. THATCHER,
Secretary.

PUEBLO, COLORADO, April 4th, 1879.

Certificate of
increase of capital
stock of P. & V. (III.)
from \$6,100,000 to
\$6,500,000.

Upon a call of the stockholders present in person or by proxy, it was found that 47,774 shares were represented at the meeting.

The Treasurer submitted a transcript of the Stock Ledger showing that the total outstanding stock of the Company was 60,839 shares.

The following resolution was offered by Alden Speare and duly seconded:

"RESOLVED, that the necessities of the Company require an increase of its present Capital Stock from Six Million, One Hundred Thousand Dollars to Six Million Five Hundred Thousand Dollars consisting of Sixty-five Thousand Shares of One Hundred Dollars each, and that the same is hereby declared increased accordingly."

A vote was taken upon the resolution aforesaid by ballot, and it was found that 47,774 shares were voted in favor of it and none against, and it was declared adopted accordingly by a vote exceeding in value three fourths of the entire capital stock of the said Company.

Given under my hand and the seal of said Company the day and year aforesaid.

JOS. NICKERSON,
President.

[SEAL]

Affidavit of President
of R.R. Co. to truth
of foregoing
certificate.

STATE OF MASSACHUSETTS, {
CITY OF BOSTON, { ss.

Personally appeared before me this 23d day of May 1879, Joseph Nickerson, President of the Pueblo and Arkansas Valley Railroad Company, and made oath that the facts set forth in the foregoing Certificate by him subscribed are true.

Given under my hand and official seal this 23d day of May 1879.

GEO. L. GOODWIN,
Notary Public.

[SEAL]

(INDORSED.)

Pueblo and Arkansas Valley Railroad Company.
Increase of Capital Stock.

Indorsements of
filing and recording
of foregoing
certificate.

Filed in the office of the Secretary of State, June 2, 1879,
at 9 o'clock A.M., and Recorded in Book 7 Page 412.

N. H. MELDRUM,
Secretary of State.

By J. M. GALLOWAY,
Deputy.

STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Secretary of State.

I, E. J. Eaton, Secretary of State of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Increase of Capital Stock of The Pueblo and Arkansas Valley Railroad Company which was filed in this Office the Second day of June A.D. 1879 at 9 o'clock A.M., and admitted to record.

Certificate filed
June 2, 1879.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Sixteenth day of March A.D. 1892.

[SEAL]

E. J. EATON,
Secretary of State.

ISSUES OF CAPITAL STOCK OF **THE PUEBLO AND ARKANSAS VALLEY RAIL- ROAD CO. (III).**

Issued between Nov. 4, 1878 and April 15, 1879 in exchange for stock of The Pueblo and Arkansas Valley R.R. Co. (II.) which was originally issued to the Commonwealth Contract Co., 30,000 shares		\$3,000,000
Issued on April 15, 1879 in exchange for stock of the Canon City & San Juan Ry Co., 997 shares		99,700
Issued on August 1, 1879 in exchange for stock of the Canon City & San Juan Ry Co., 3 shares		300
Issued between Nov. 4 and Dec. 10, 1878 to subscribers under Circular No. 41 of the Atchison Co. as per vote of Executive Committee of Atchison Co. passed Nov. 4, 1878, 4,014 shares		401,400
Issued on Dec. 13, 1878 to subscribers under the above named Circular No. 41 of Atchison Co., 6,111 shares		611,100
(Issued on Dec. 31, 1878 to Alden Spears in exchange for 42,150 shares of Denver & Rio Grande Ry Co. stock under agreement of said Spears with W. J. Palmer, 8,502 shares, \$850,200. Subsequently cancelled under contract of March 27, 1880. See <i>Post</i> , p. 249.)		
Issued between April 11 and April 14, 1879 to subscribers under Circulars Nos. 42 and 44 of Atchison Co., 11,125 shares,		1,121,500
Issued on January 27, 1880 to subscribers under above named Circulars Nos. 42 and 44, balance due them under said Circulars, 3,822 shares		382,200
Total amount of stock outstanding,		<u>\$5,616,200</u>

MORTGAGES.

On November 1, 1875 The Pueblo and Arkansas Valley R.R. Co. (II.) made a First Mortgage of its road, which then extended from the eastern boundary of the State of Colorado to the City of Pueblo, to secure its First Mortgage bonds limited to \$14,000 per mile of constructed railroad. There were issued under this mortgage \$1,779,000 of said bonds.

First Mortgage of
P. & A. V. (II.)
Nov. 1, 1875.

On July 30, 1878 the authorized line of the said Company was extended by an amendment of its Charter, (See *ante*, p. 30) and on September 12, 1878 the said Company was consolidated with the Canon City and San Juan R'y Co. (See *ante*, p. 44.)

Amendment of
charter.

Consolidation with
C. C. & S. J.

On October 1, 1878 The Pueblo and Arkansas Valley R.R. Co. (III.) made a First Mortgage to secure its First Mortgage bonds limited to \$14,000 per mile of completed road of the consolidated company. There were issued under this mortgage \$2,249,000 of said bonds. One million seven hundred and seventy-nine thousand dollars of the said bonds were by the terms of the mortgage reserved and set aside for the purpose of exchanging them for the said outstanding First Mortgage bonds issued by The Pueblo and Arkansas Valley R.R. Co. (II.). This exchange however was never effected.

First Mortgage of
P. & A. V. (III.)
Oct. 1, 1878.

Certain of the First Mortgage bonds issued under the two mortgages above named were redeemed and cancelled by the Atchison Company during the years 1877 to 1880 inclusive under the provisions of the lease of The Pueblo and Arkansas Valley R.R. Co. (II.) to the Atchison Company dated November 15, 1875, which was then in force. (See *post*, p. 311.) By these cancellations there were retired \$146,000 of the First Mortgage bonds of The Pueblo and Arkansas Valley R.R. Co. (II.) and \$167,000 of the First Mortgage bonds of The Pueblo and Arkansas Valley R.R. Co. (III.).

Redemption and
cancellation of
certain bonds issued
under above-named
mortgages.

This left outstanding of the said bonds issued by the first

Outstanding first
mortgage bonds.

Outstanding first mortgage bonds of two issues.

named Company \$1,633,000, and of the said bonds issued by the last named Company \$2,082,000, making in all \$3,715,000 designated as First Mortgage Bonds, although the last named bonds issued under the said mortgage of 1878 are only a first mortgage upon the portions of the road added by the said consolidation and amendment of charter, being subject to the prior lien of the mortgage of November 1st, 1875 upon the road between the eastern boundary of Colorado and Pueblo; whereas the bonds issued under the said mortgage of 1875 are in truth First Mortgage bonds but are secured by a mortgage which covers only the said portion of the road from the state line to Pueblo.

Second Mortgage P. & A. V. (III.) July 1, 1884.

On July 1, 1884 The Pueblo and Arkansas Valley R.R. Co. (III.) made a Second Mortgage to secure its Second Mortgage Bonds so limited that the whole encumbrance, including the bonds issued under said mortgages of November 1, 1875, and October 1, 1878 and said Second Mortgage should not exceed \$25,000 per mile of completed road. Of these Second Mortgage Bonds there were issued \$2,270,000.

All First Mortgage bonds held by trustee under General Mortgage.

All of the First Mortgage Bonds outstanding under said two First Mortgages have been acquired by the Atchison Company under its Reorganization Plan and are now held by the Trustee under the General Mortgage of that Company.

Acquisition and disposition of Second Mortgage bonds by Atchison Co.

All of said Second Mortgage Bonds were taken by the Atchison Company in payment of the indebtedness to it of The Pueblo and Arkansas Valley R.R. Co. (III.). One million six hundred and ninety thousand dollars of said bonds were deposited by the Atchison Company as part of the security for its six per cent. Sinking Fund Secured bonds, and five hundred thousand dollars of said bonds as part of the security for its five per cent. Collateral Trust bonds. The Atchison Company deposited the remaining eighty thousand dollars of said Second Mortgage bonds with the Trustees under its Land Grant Mortgage to secure moneys lent to it by said Trustees. Said Land Grant Mortgage has now been cancelled and discharged and the said bonds formerly held by the Trustees thereunder are now held by the Trustee under the Atchison Company's General Mortgage.

FIRST MORTGAGE

OF

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY (II.).

THIS INDENTURE, made this first day of November, in the year of our Lord One thousand eight hundred and seventy-five, BETWEEN THE PUEBLO AND ARKANSAS VALLEY RAILROAD Co., a corporation organized under the laws of the Territory of Colorado, party of the first part, and ISAAC T. BURR, GEORGE B. WILBUR, and ALDEN SPEARE, parties of the second part.

Nov. 1, 1875.
Parties.

WHEREAS, the said party of the first part is vested with the franchise to be a corporation, granted by the Territory of Colorado, and is duly organized as a corporation in conformity with the provisions of the said grant, and, in pursuance of the powers and capacities conferred upon the said party in its corporate character by the laws of the said Territory, owns and possesses a franchise and Railroad in course of construction, extending from the Eastern boundary line of Colorado, at the Western terminus of the Atchison, Topeka, and Santa Fe Railroad, to Pueblo, in said Territory of Colorado.

Franchise of
R.R. Co.

Road extending
from State line
to Pueblo.

AND WHEREAS the said party of the first part, for the purpose of completing and equipping the said Railroad, has resolved to execute, issue, and dispose of its bonds, designated as First Mortgage Bonds, amounting to Fourteen thousand dollars per mile of completed railroad; all of which bonds bear date on the first day of November, One thousand eight hundred and seventy-five, and are of like tenor and in the form following:—

Proposed issue
of bonds.

First Mortgage
P. & A. V. (II.).

Form of bond.

UNITED STATES OF AMERICA.—TERRITORY
OF COLORADO.

No.

\$1,000

PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

First Mortgage Bonds limited to Fourteen Thousand Dollars a mile of completed road.

Interest at seven per cent., payable in Gold Coin semi-annually, free of Government Tax.

KNOW ALL MEN BY THESE PRESENTS, that the PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, hereby acknowledges itself to owe ISAAC T. BURR, GEORGE B. WILBUR, and ALDEN SPEARE, of the city of Boston, or bearer, the sum of One Thousand Dollars, in United States *Gold Coin* at par, to be paid at the Agency of the Company in the city of Boston, on the first day of July, nineteen hundred and five (1905), with interest on the said principal from the first day of January 1876, at the rate of *Seven per centum per annum in Gold Coin as aforesaid*, free from any United States Government Tax, at the said Agency in the city of Boston, on the first days of July and January of each year, until the said principal shall be fully paid on the presentation and surrender of the annexed coupons as they respectively become due.

This Bond is secured by a Deed of Trust or Mortgage, bearing date the first day of November, 1875, duly executed and delivered by the Pueblo and Arkansas Valley Railroad Company to Isaac T. Burr, George B. Wilbur, and Alden Speare, Trustees, and conveying the Railroad of the said Company and the appurtenances, franchises, and things therein described. The amount of Bonds to be issued under said Mortgage is absolutely limited to Fourteen Thousand Dollars per mile of completed railroad.

This Bond shall pass by delivery or by transfer on the Books of the Company in the city of Boston, and at any other place which the Company may determine. After a registration of ownership, certified hereon by the Transfer

Agent of the Company, no transfer, except upon the Books of the Company, shall be valid, unless the last transfer be to bearer, which shall restore transferability by delivery; but this bond shall continue subject to successive registrations and transfers to bearer as aforesaid, at the option of each holder. On a registration of ownership, the holder may, at his option, surrender the coupons, which will then be permanently cancelled; and thereafter interest will be payable to the registered holder or his attorney.

First Mortgage
P. & A. V. (II.)

This Bond shall not become obligatory until it shall have been authenticated by a Certificate indorsed hereon, and duly signed by at least two of the Trustees.

IN WITNESS WHEREOF, the said Company has caused its Corporate Seal to be hereto affixed, and these presents to be signed by its President and Treasurer, on the first day of November, A.D. 1875.

(Signed) JOSEPH NICKERSON,
President.

THOMAS NICKERSON,
Treasurer.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, THAT the said party of the first part hereto, in consideration of the premises, and the sum of one dollar to it in hand duly paid at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal and interest of the bonds aforesaid, issued, or to be issued, as herein recited and provided, and every part of the said principal and interest, as the same shall become payable according to the tenor of the said bonds, and of the coupons thereto annexed, HATH granted, bargained, sold, conveyed, and transferred, and DOES, by these presents, grant, bargain, sell, convey, and transfer unto the parties of the second part, their heirs and assigns,—

Granting clause.

ALL AND SINGULAR the railroad building, and to be built by the said Company, extending from the Eastern boundary

Railroad and property
mortgaged.

**First Mortgage
P. & A. V. (II.).**

line of Colorado, at the Western terminus of 'the Atchison, Topeka, and Santa Fe Railroad, to Pueblo, in said Territory of Colorado, including all the railways, ways, rights of way, and depot-grounds; all tracks, bridges, viaducts, culverts, fences, and other structures; all depots, station-houses, engine-houses, and other buildings; and all machine-shops, and other shops, whether now held or hereafter to be acquired for use in connection with the said railroad; and including also all franchises connected with or relating to the said railroad, or the construction, maintenance, or use thereof, now held or hereafter acquired by the said party of the first part, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, tolls, incomes, rents, issues, and profits thereof; and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, and to the same and any and every part thereof, with the appurtenances.

Habendum clause.

TO HAVE AND TO HOLD the said railroad, appurtenances and property, unto the said parties of the second part as joint tenants, and not as tenants in common, their successors, survivors, and the survivor of them, and the heirs, executors, administrators, and assigns of such survivor, to their own use and behoof forever.

IN TRUST, nevertheless, &c.

**Possession of
mortgagor until
default.**

Article First.— Until default shall be made in the payment of principal or interest of the said bonds, or some of them, or until default shall be made in respect to something by these presents required to be done, observed, performed, or kept by the party of the first part, the said party of the first part shall be suffered and permitted to possess, manage, operate, and enjoy the said hereinbefore described railroad, and every part thereof, with its equipments and appurtenances, and to take and use the tolls, incomes, rents, issues, and profits thereof in the same manner and with the same effect as if this deed had not been made, except as hereinafter provided.

Article Second.—In case default shall be made in the payment of any interest on any of the aforesaid bonds issued or to be issued, according to the tenor thereof, or of the coupons thereto annexed, or in any requirement to be done or kept by the party of the first part, and in case such default shall continue for the period of six months, it shall be lawful for the said Trustees, or their successors, personally, or by their attorney or agent, to enter into or upon all and singular the railroad and premises hereby conveyed, or intended so to be conveyed, and each and every part thereof, and to have, hold, and use the same, operating by their superintendents, managers, receivers, or servants, or other attorney or agent, the said railroad, and conducting the business thereof, and making, from time to time, all repairs and replacements, and such useful alterations, additions and improvements thereto, as may seem to them or him to be judicious; and collect and receive all tolls, freights, incomes, rents, issues, and profits of the same, and of every part thereof; and after deducting the expenses of operating the said railroad, and conducting its business, and of all the said repairs, replacements, alterations, additions, and improvements, and all payments which may be made for taxes, assessments, charges, or liens, prior to the lien of these presents upon the said railroad and premises, or any part thereof, to apply the moneys arising as aforesaid to the payment of interest upon said bonds in the order in which such interest shall have become or shall become due, ratably to the persons holding the coupons evidencing the right to such interest; and, after paying all interest which shall have become due, to apply the same to the satisfaction of the principal of the said bonds which may be at that time unpaid, ratably, and without discrimination or preference.

Article Third.—In case default shall be made as aforesaid, and shall continue as aforesaid, or in case default shall be made in the payment of the principal of any of the said bonds, or any part thereof, and such default shall continue for the period of six months aforesaid, it shall likewise be lawful for the said Trustees, or their successors,

First Mortgage
P. & A. V. (II.).

In case of default
continued for six
months, trustees
may enter and take
possession.

Power of sale
on default.

**First Mortgage
P. & A. V. (II.).****Power of sale
on default.**

after entry as aforesaid, or other entry personally, or by their attorney or agent, to sell and dispose of all and singular the railroad and premises hereby conveyed, or intended so to be, at public auction, either in the City of Boston, or at such place within the Territory of Colorado as they or he may designate, and at such time as they or he may appoint, having first given notice of the time and place of such sale, by advertisement to be published not less than three times a week for six weeks, in one or more newspapers in the City of Boston, Mass., and Pueblo, Colorado, respectively, and to adjourn the said sale from time to time in their or his discretion; and, if so adjourning, to make the same at the time and place to which the same may be so adjourned; and upon such sale, to make and deliver to the purchaser or purchasers of the property so sold, good and sufficient deed or deeds in law for the same; which sale, made as aforesaid, shall be a perpetual bar, both in law and equity, against the party of the first part, and all other persons whomsoever, lawfully claiming or to claim the said railroad and premises, or any part thereof, by, from, through, or under it; and after deducting from the proceeds of such sale just allowances for all expenses of the said sale, including attorney's and counsel fees, and all other expenses, advances, or liabilities, which may have been made or incurred by the said Trustees in operating or maintaining the said railroad, or in managing its business while in possession, and all payments which may have been made by them for taxes or assessments on the said premises, or any part thereof, as well as compensation for their own services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be at that time unpaid, whether or not the same shall have previously become due, and of the interest which shall at that time have accrued on the said principal, and be unpaid, without discrimination or preference, ratably to the aggregate amount of such unpaid principal and accrued and unpaid interest; and if, after satisfaction thereof, a surplus of the said proceeds shall remain, to pay over the same to the said party of the first part, or to

whomsoever may be lawfully or equitably entitled to receive the same.

First Mortgage
P. & A. V. (II.).

And it is hereby declared that the receipt of the Trustees shall be a sufficient discharge to the purchaser or purchasers of the premises for his or their purchase money; and that such purchaser or purchasers, his or their heirs, executors, administrators, or assigns, shall not, after payment thereof, and having such receipt, be liable to see to its being applied upon or for the trusts and purposes of these presents, or in any manner whatsoever be answerable for any loss, misapplication, or non-application of such purchase-money, or any part thereof, or be obliged to inquire into the necessity, expediency, or authority of or for any such sale.

Article Fourth.—In case default shall be made in the payment of any half-year's interest on any of the aforesaid bonds at the time and in the manner in the coupons issued therewith provided, the said coupon having been presented, and the payment of the interest therein specified having been demanded, and in case such default shall continue for the period of six months after the said coupon shall have become due and payable, then and thereupon the principal of all the bonds secured hereby shall, at the election of the Trustees, become immediately due and payable, any thing contained in the said bonds, or herein, to the contrary notwithstanding; but a majority in interest of the holders of said bonds may, by an instrument in writing, signed by such majority before the interest in arrears shall be paid, instruct the Trustees to declare the said principal to be due, or to waive the right so to declare on such terms and conditions as such majority shall deem proper, or may annul or reverse the election of the Trustees, provided that no action of the Trustees or bondholders shall extend to, or be taken to affect, any subsequent default, or to impair the rights resulting therefrom.

On default on
interest continued
for six months,
trustees may declare
principal due.

But action of trustees
may be controlled by
majority in interest
of bondholders.

Article Fifth.—The party of the first part shall from time to time, and at all times hereafter, and as often as thereunto requested by the Trustees, execute, deliver, and acknowledge all such further deeds, conveyances, and as-

Covenant of further
assurance.

First Mortgage
P & A. V. (II.)

surances in the law for the better assuring to the Trustees, upon the trusts herein expressed, the said railroad and the equipments and appurtenances hereinbefore mentioned or intended so to be conveyed, and all franchises now held or hereafter acquired, as by the Trustees, or by their counsel learned in the law, shall be reasonably advised, devised, or [required] acquired.

Power of trustees
to release real estate.

Article Sixth.—The Trustees shall have full power, in their discretion, upon the written request of the party of the first part, to convey, by way of release or otherwise to the persons designated by the said Company, any lands acquired or held for the purposes of stations, depot-shops, or other buildings; and shall also have power to convey as aforesaid, on like request, any lands or property, which, in the judgment of the Trustees, shall not be necessary for use in connection with the said railroad, or which may have been held for a supply of fuel, gravel, or other materials; and also to convey as aforesaid on like request, any lands not occupied by the track, which may become disused by reason of a change of the location of any station-house, depot-shop, or other building connected with the said railroad, and such lands occupied by the track, and adjacent to such station-house, depot-shop, or other building, as the said Company may deem it expedient to disuse or abandon by reason of such change; and to consent to any such change, and to such other changes in the location of the track or depot or other buildings as in their judgment shall have become expedient; and to make and deliver the conveyances necessary to carry the same into effect; but any lands which may be acquired for permanent use, in substitution for any so released, shall be conveyed to the Trustees upon the trusts of these presents.

Any lands acquired
in substitution to be
conveyed to trustees.

Defeasance clause.

Article Seventh.—If the party of the first part shall well and truly pay the principal of the said bonds and every of them, and all interest thereon, when the same shall become payable, according to the tenor of the said bonds and the coupons issued therewith, and shall well and truly observe, perform, and keep all and singular the several things herein required to be by it performed or kept according to

the true intent and meaning of these presents, then, and in that case, all the estate, right, title, and interest of the said party of the second part, and of their successors in the trust hereby created, shall cease, determine, and become void: otherwise the same shall be and remain in full force and virtue.

First Mortgage
P. & A. V. (II.).

Article Eighth.—It is hereby declared and agreed that it shall be the duty of the Trustees to execute the power of entry hereby granted, or the power of sale hereby granted, or both, or to take appropriate proceedings in equity or at law, to enforce the rights of the bondholders under these presents, upon requisition in writing as hereinafter specified: viz.,—

Requisition of
bondholders to
enforce remedies.

1. If the default be as to interest or principal of any of the bonds aforesaid, such requisition upon the said Trustees shall be by holders of not less than two hundred thousand dollars in aggregate amount of the said bonds; and upon such requisition and a proper indemnification by the persons making the same to the Trustees against the costs and expenses to be by them incurred, it shall be the duty of the Trustees to enforce the rights of the bondholders under these presents by entry, sale, or legal proceedings, as they, being advised by the counsel learned in the law, shall deem most expedient for the interest of all the holders of the said bonds.

In case of default as
to interest or principal,
holders of \$200,000 of
bonds may make
requisition.

2. If the default shall be in the omission to comply with any other provision herein contained to be performed or kept by the said Company, then, and in such case, the requisition shall be as aforesaid; but it shall be within the discretion of the Trustees to enforce or waive the rights of the bondholders by reason of such default, subject to the power hereby declared of a majority in interest of the holder of the said bonds, by requisition in writing signed by such majority, to instruct the said Trustees to waive such default, or upon adequate indemnity, as aforesaid, to enforce their rights by reason thereof, provided that no action of the said Trustees or bondholders, or both, in waiving such default, or otherwise, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

In case of other
default, trustees may
exercise discretion
unless controlled by
majority in interest
of bondholders.

First Mortgage
P. & A. V. (11.).

Provisions for
appointment of new
trustees in case of
vacancies.

Article Ninth.—It is mutually agreed by and between the parties hereto, that, in case one or more of the Trustees herein appointed shall die or resign or be removed, a successor or successors may be appointed by the party of the first part, subject to the approval of a majority of the bondholders, who shall be notified by a printed notice, published ten consecutive days in a newspaper in the city of Boston, to meet for the purpose of signifying their choice; and, in case they do not disapprove of the appointment of the party of the first part within one month after such notice shall have been first published, the Trustee or Trustees so appointed shall be authorized to act under this agreement. If the majority of the bondholders disapprove, and so notify the party of the first part, then the party of the first part shall nominate some other person or persons to be Trustee or Trustees, subject to the approval of the majority of the bondholders as aforesaid; and so on until Trustees shall be appointed to the satisfaction of such majority.

PROVIDED, NEVERTHELESS, and it is hereby declared and agreed, that in case it shall at any time hereafter prove impracticable, after reasonable exertions, to appoint in the manner hereinbefore provided a successor, in case a vacancy may have happened in said trust, application in behalf of all the holders of the bonds secured hereby may be made by holders of the bonds secured hereby to the aggregate amount of Two hundred thousand dollars, to any Circuit Court of the United States, or to any other court of competent jurisdiction for any judicial district in which any part of the aforesaid railroad may be situate, for the appointment of new Trustees.

Limitation of liability
of trustees.

And it is further agreed that each Trustee is to be held liable for his own acts, and not for the acts of the other Trustee [s], and that neither Trustee shall be liable for the acts of any Agent or Agents appointed by them in good faith, to execute the powers conferred on them by this deed.

Attesting clause.

IN WITNESS WHEREOF, the said party of the first part has caused its corporate seal to be affixed

[L. s.] to these presents, and the same to be attested by the signatures of its *President* and *Treasurer*; and the said parties of the second part have hereunto set their hands and seals to *signify* their acceptance of the said trust, the day and year first above written.

First Mortgage
P. & A. V. (II.).

PUEBLO & ARKANSAS VALLEY RAILROAD COMPANY.

By JOS. NICKERSON,
President.

Attest:
THOS. NICKERSON,
Treasurer.

In the presence of
JAS. B. BELL,
GEO. L. GOODWIN.

ISAAC T. BURR,
GEORGE B. WILBUR, } *Trustees.*
ALDEN SPEARE,

COMMONWEALTH OF MASSACHUSETTS, }
COUNTY OF SUFFOLK, } ss.
CITY OF BOSTON, }

BE IT REMEMBERED, That on this tenth day of November in the year of our Lord One Thousand Eight Hundred and Seventy-five, before me, James B. Bell, a Commissioner of Deeds in and of the City of Boston, County of Suffolk, and Commonwealth of Massachusetts, residing in said City, duly commissioned and authorized by the Governor, and qualified under the laws of the Territory of Colorado to take the acknowledgment and proof of the execution of deeds and other instruments, in writing, under seal, or not, to be used or recorded, and to take depositions, to administer oaths and affirmations &c., personally appeared Joseph Nickerson, President, and Thomas Nickerson, Treasurer of the Pueblo and Arkansas Valley Railroad Company, a duly authorized corporation, who are personally known to me to be the same persons whose names as

Acknowledgment
of R.R. Co.

**First Mortgage
P. & A. V. (II.).**

such President and Treasurer, as aforesaid, are subscribed to the foregoing instrument of writing, and they severally acknowledged the same to be their act and deed as such President and Treasurer as aforesaid, and the act and deed of the said Railroad Company, for the uses and purposes therein mentioned. And at the same time and place personally appeared Isaac T. Burr, George B. Wilbur and Alden Speare, Trustees of said Railroad Company, who are personally known to me to be the same persons whose names as such Trustees as aforesaid are subscribed to the foregoing instrument of writing, and they severally acknowledged the same to be their act and deed as such Trustees as aforesaid for the uses and purposes therein mentioned.

**Acknowledgments
of Trustees.**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, as Commissioner of Deeds for the Territory of Colorado, at my office in the City, County, and Commonwealth aforesaid, on the day and year above written.

[SEAL]

JAS. B. BELL,
*Commissioner of Deeds for the
Territory of Colorado.*

**Recording of
foregoing mortgage.**

THE FOREGOING MORTGAGE was recorded in Pueblo County, Colorado, on November 20, 1875, in Book 12, pages 322-331.

FIRST MORTGAGE

OF

THE PUEBLO & ARKANSAS VALLEY RAILROAD COMPANY (III.).

THIS INDENTURE, made this first day of October, Oct 1, 1878.
in the year of our Lord, one thousand eight hundred and
seventy-eight, between THE PUEBLO AND ARKANSAS VALLEY Parties.
RAILROAD COMPANY, a corporation organized under the laws
of the State of Colorado, party of the first part, and ISAAC
T. BURR, GEORGE B. WILBUR, and ALDEN SPEARE, parties
of the second part;

WHEREAS, the said party of the first part is vested with Franchise of
R.R. Co.
the franchise to be a corporation, under the laws of Col-
orado, and is duly organized as a corporation in conformity
with the provisions of said laws, and in pursuance of the
powers and capacities conferred upon the said party, in its
corporate character, by the laws of said Colorado, owns and
possesses a franchise and Railroad in course of construc-
tion, extending from the Eastern boundary line of Colorado, Authorized lines.
at the Western terminus of the Atchison, Topeka and
Santa Fe Railroad, through the counties of Bent, Pueblo,
Fremont and Lake, and across Tennessee Pass, to the
Westerly boundary line of the State of Colorado; and also
franchises and railroads as branches to said railroad, some
in course of construction and some immediately or soon to
be constructed under its articles of incorporation and filed
locations;

AND WHEREAS, The Pueblo and Arkansas Valley Rail- Making of first
mortgage by
P. & A. V. R.R. Co.
(II.) Nov 1, 1875.
road Company, a corporation organized under the laws of
the Territory of Colorado, the franchises, rights and prop-
erty of which the party of the first part now owns and pos-
sesses, did, on the first day of November, A.D. 1875, make
and execute unto ISAAC T. BURR, GEORGE B. WILBUR, and

**First Mortgage
P. & A. V. (III.).**

ALDEN SPEARE, Trustees, a deed of Trust or Mortgage of the railroad of said company organized under the laws of the Territory of Colorado, extending from the Eastern boundary line of Colorado, at the Western terminus of the Atchison, Topeka and Santa Fe Railroad, to Pueblo, in said Colorado, then building and to be built, together with the appurtenances thereto belonging, and property used therewith, as by reference to said deed of Trust or Mortgage as recorded in the Recorder's office of Pueblo County, in Book 12, pages 322 to 331 of Records, will more fully appear; said deed of Trust or Mortgage being designed and intended to secure certain bonds of said company, designated First Mortgage Bonds, amounting to fourteen thousand dollars per mile of completed road; all of which bonds bear date the first day of November, 1875, and become due and payable July 1, 1905, with interest payable semi-annually, in gold, at the rate of seven per centum per annum, and of which bonds, seventeen hundred and seventy-nine (1779) of the denomination of one thousand dollars each have been issued.

**Proposed issue of
bonds for purpose
of completing and
equipping road and
of taking up and
cancelling outstanding
bonds.**

AND WHEREAS, the said party of the first part, for the purpose of completing and equipping the said railroad and branches, and of taking up and cancelling said bonds issued as aforesaid, the holder of any of said bonds having the right to exchange the same for bonds of like denomination secured by this mortgage at their face value, to the end that all the first mortgage bonds of said Railroad Company may be of like form and have the same security, have resolved to execute, issue and dispose of its bonds designated as First Mortgage Bonds, limited to fourteen thousand dollars per mile of completed railroad; all of which bonds bear date on the first day of October, 1878, and are of like tenor and in the form following:—

UNITED STATES OF AMERICA.—STATE OF COLORADO.

First Mortgage

P. & A. V. (III).

No. _____

\$1,000

Form of bond.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD
COMPANY.

First Mortgage Bonds, limited to Fourteen Thousand Dollars a mile of completed road.

Interest at seven per centum, payable in Gold Coin, semi-annually, free of Government Tax.

KNOW ALL MEN BY THESE PRESENTS, that The Pueblo and Arkansas Valley Railroad Company hereby acknowledges itself to owe ISAAC T. BURR, GEORGE B. WILBUR, and ALDEN SPEARE, of the City of Boston, or bearer, the sum of One Thousand Dollars in United States Gold Coin at par, to be paid at the agency of the company in the city of Boston, on the first day of July, nineteen hundred and five (1905), with interest on the said principal from the first day of January, 1879, at the rate of seven per centum per annum in Gold Coin as aforesaid, free from any United States Government Tax, at the said agency in the city of Boston, on the first days of July and January of each year, until the said principal shall be fully paid, on the presentation and surrender of the annexed coupons as they respectively become due.

This Bond is secured by a Deed of Trust or Mortgage, bearing date the first day of October, 1878, duly executed and delivered by The Pueblo and Arkansas Valley Railroad Company to ISAAC T. BURR, GEORGE B. WILBUR, and ALDEN SPEARE, Trustees, and conveying the Railroad of the said company and the appurtenances, franchises, and things therein described.

The amount of Bonds to be issued under said Mortgage is absolutely limited to Fourteen Thousand Dollars per mile of completed railroad.

This Bond shall pass by delivery or by transfer on the Books of the Company, in the city of Boston, and at any other place which the company may determine. After a registration of ownership, certified hereon by the Transfer

First Mortgage
P. & A. V. (III.).

Agent of the Company, no transfer, except upon the Books of the Company, shall be valid, unless the last transfer be to bearer, which shall restore transferability by delivery; but this bond shall continue subject to successive registrations and transfers to bearer as aforesaid, at the option of each holder.

On a registration of ownership, the holder may, at his option, surrender the coupons, which will then be permanently cancelled; and thereafter interest will be payable to the registered holder or his attorney.

This Bond shall not become obligatory until it shall have been authenticated by a certificate indorsed hereon, and duly signed by at least two of the Trustees.

IN WITNESS WHEREOF, the said Company has caused its corporate seal to be hereto affixed and these presents to be signed by its President and Treasurer, on the first day of October, A.D. 1878.

(Signed)

JOSEPH NICKERSON,

President.

(Signed)

THOMAS NICKERSON,

Treasurer.

\$1,779,000 of bonds
issued hereunder to
be reserved and held
for exchange for
outstanding bonds
at par.

Seventeen hundred and seventy-nine of said bonds being numbers 1 to 1779 inclusive of the denomination of one thousand dollars each, being reserved and held by said party of the first part and only to be issued and used in redemption of and exchange for said seventeen hundred and seventy-nine bonds, already issued at the option of the holders thereof respectively; all bonds received by the party of the first part, by reason of such exchange or redemption, to be at once cancelled, and not to be re-issued by said railroad company.

Granting clause.

NOW THEREFORE this Indenture witnesseth, that the said party of the first part hereto, in consideration of the premises and the sum of one dollar, to it in hand duly paid at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal and interest of the bonds aforesaid, issued or to be issued as herein recited,

and provided, and every part of the said principal and interest, as the same shall become payable according to the tenor of the said bonds, and of the coupons thereto annexed, hath granted, bargained, sold, conveyed, and transferred, and does by these presents, grant, bargain, sell, convey, and transfer unto the parties of the second part, their heirs and assigns,—

First Mortgage
P. & A. V. (III.).

All and singular, the railroad building and to be built by the said company, extending from the Eastern boundary line of Colorado, at the western terminus of the Atchison, Topeka and Santa Fe Railroad, through the counties of Bent, Pueblo, Fremont and Lake, and across Tennessee Pass, to the Westerly boundary line of the State of Colorado, and all branches thereto in process of construction, or to be constructed under its articles of incorporation and filed locations, including all the railways, ways, rights of way, and depot grounds; all tracks, bridges, viaducts, culverts, fences and other structures; all depots, station houses, engine houses and other buildings; and all machine shops and other shops whether now held or hereafter to be acquired for use in connection with the said railroad; and including also all franchises connected with or relating to the said railroad, or the construction, maintenance, or use thereof, now held or hereafter acquired by the said party of the first part, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, both incomes, rents, issues and profits thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law, as in equity, of the said party of the first part, of, in and to the same, and any and every part thereof, with the appurtenances.

Railroad and property
mortgaged.

TO HAVE AND TO HOLD the said railroad, appurtenances and property unto the said parties of the second part as joint tenants, and not as tenants in common, their successors, survivors, and the survivor of them, and the heirs, executors, administrators and assigns of such survivor, to their own use and behoof forever.

Habendum clause.

First Mortgage
P. & A. V. (III.).

Possession of
mortgagor until
default.

In case of default
continued for six
months, trustees
may enter and take
possession.

In Trust, nevertheless, for the purposes herein expressed, and with the powers and liabilities herein named, to wit:—

Article First.— Until default shall be made in the payment of principal or interest of the said bonds, or some of them, or until default shall be made in respect to something by these presents required to be done, observed, performed, or kept by the party of the first part, the said party of the first part shall be suffered and permitted to possess, manage, operate, and enjoy the said hereinbefore described railroad, and every part thereof, with its equipments and appurtenances, and to take and use the tolls, incomes, rents, issues, and profits thereof in the same manner and with the same effect as if this deed had not been made, except as hereinafter provided.

Article Second.— In case default shall be made in the payment of any interest on any of the aforesaid bonds issued or to be issued, according to the tenor thereof, or of the coupons thereto annexed, or in any requirement to be done or kept by the party of the first part, and in case such default shall continue for the period of six months, it shall be lawful for the said Trustees, or their successors, personally, or by their attorney or agent, to enter into or upon all and singular the railroad and premises hereby conveyed, or intended so to be conveyed, and each and every part thereof, and to have, hold, and use the same, operating by their superintendents, managers, receivers, or servants, or other attorney or agent, the said railroad, and conducting the business thereof, and making, from time to time, all repairs and replacements, and such useful alterations, additions and improvements thereto, as may seem to them or him to be judicious; and collect and receive all tolls, freights, incomes, rents, issues, and profits of the same, and of every part thereof; and after deducting the expenses of operating the said railroad, and conducting its business, and of all the said repairs, replacements, alterations, additions, and improvements, and all payments which may be made for taxes, assessments, charges, or liens, prior to the lien of these presents upon the said railroad and premises—

or any part thereof, to apply the moneys arising as aforesaid to the payment of interest upon said bonds in the order in which such interest shall have become or shall become due, ratably to the persons holding the coupons evidencing the right to such interest; and, after paying all interest which shall have become due, to apply the same to the satisfaction of the principal of the said bonds which may be at that time unpaid, ratably, and without discrimination or preference.

First Mortgage
P. & A. V. (III).

Article Third.—In case default shall be made as aforesaid, and shall continue as aforesaid, or in case default shall be made in the payment of the principal of any of the said bonds, or any part thereof, and such default shall continue for the period of six months aforesaid, it shall likewise be lawful for the said Trustees, or their successors, after entry as aforesaid, or other entry personally, or by their attorney or agent, to sell and dispose of all and singular the railroad and premises hereby conveyed, or intended so to be, at public auction, either in the city of Boston, or at such place within the Territory of Colorado as they or he may designate, and at such time as they or he may appoint, having first given notice of the time and place of such sale, by advertisement to be published not less than three times a week for six weeks, in one or more newspapers in the city of Boston, Mass., and Pueblo, Colorado, respectively, and to adjourn the said sale from time to time in their or his discretion; and, if so adjourning, to make the same at the time and place to which the same may be so adjourned; and upon such sale, to make and deliver to the purchaser or purchasers of the property so sold, good and sufficient deed or deeds in law for the same; which sale, made as aforesaid, shall be a perpetual bar, both in law and equity, against the party of the first part, and all other persons whomsoever, lawfully claiming or to claim the said railroad and premises, or any part thereof, by, from, through, or under it; and after deducting from the proceeds of such sale just allowances for all expenses of the said sale, including attorney's and counsel fees, and all other expenses, advances, or liabilities, which may have

Power of sale on
default.

First Mortgage
P. & A. V. (III.),

been made or incurred by the said Trustees in operating or maintaining the said railroad, or in managing its business while in possession, and all payments which may have been made by them for taxes or assessments on the said premises, or any part thereof, as well as compensation for their own services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be at that time unpaid, whether or not the same shall have previously become due, and of the interest which shall at that time have accrued on the said principal, and be unpaid, without discrimination or preference, ratably to the aggregate amount of such unpaid principal and accrued and unpaid interest; and if, after satisfaction thereof, a surplus of the said proceeds shall remain, to pay over the same to the said party of the first part, or to whomsoever may be lawfully or equitably entitled to receive the same.

And it is hereby declared that the receipt of the Trustees shall be a sufficient discharge to the purchaser or purchasers of the premises for his or their purchase money; and that such purchaser or purchasers, his or their heirs, executors, administrators, or assigns, shall not, after payment thereof, and having such receipt, be liable to see to its being applied upon or for the trusts and purposes of these presents, or in any manner whatsoever be answerable for any loss, misapplication, or non-application of such purchase-money, or any part thereof, or be obliged to inquire into the necessity, expediency, or authority of or for any such sale.

On default on
interest continued
for six months,
trustees may declare
principal due.

Article Fourth.—In case default shall be made in the payment of any half-year's interest on any of the aforesaid bonds at the time and in the manner in the coupons issued therewith, provided the said coupon having been presented, and the payment of the interest therein specified, having been demanded, and in case such default shall continue for the period of six months after the said coupon shall have become due and payable, then and thereupon the principal of all the bonds secured hereby shall, at the election of the Trustees, become immediately due and payable, anything contained in the said bonds, or herein, to the

contrary notwithstanding; but a majority in interest of the holders of said bonds may, by an instrument in writing, signed by such majority before the interest in arrears shall be paid, instruct the Trustees to declare the said principal to be due, or to waive the right so to declare on such terms and conditions as such majority shall deem proper, or may annul or reverse the election of the Trustees, provided that no action of the Trustees or bondholders shall extend to, or be taken to affect, any subsequent default, or to impair the rights resulting therefrom.

First Mortgage
P. & A. V. (III.).

Article Fifth.—The party of the first part shall from time to time, and at all times hereafter, and as often as thereunto requested by the Trustees, execute, deliver, and acknowledge all such further deeds, conveyances, and assurances in the law for the better assuring to the Trustees, upon the trusts herein expressed, the said railroad and the equipments and appurtenances hereinbefore mentioned or intended so to be conveyed, and all franchises now held or hereafter acquired, as by the Trustees, or by their counsel learned in the law, shall be reasonably advised, devised, or [required] acquired.

Covenant of further
assurance.

Article Sixth.—The Trustees shall have full power, in their discretion, upon the written request of the party of the first part, to convey, by way of release or otherwise to the persons designated by the said Company, any lands acquired or held for the purposes of stations, depot-shops, or other buildings; and shall also have power to convey as aforesaid, on like request, any lands or property, which, in the judgment of the Trustees, shall not be necessary for use in connection with the said railroad, or which may have been held for a supply of fuel, gravel, or other materials; and also to convey as aforesaid on like request, any lands not occupied by the track, which may become disused by reason of a change of the location of any station-house, depot-shop, or other building connected with the said railroad, and such lands occupied by the track, and adjacent to such station-house, depot-shop, or other building, as the said Company may deem it expedient to disuse or abandon by reason of such change; and to consent to

Power of trustees
to release real estate.

**First Mortgage
P. & A. V. (III.).**

**Any lands acquired
in substitution to be
conveyed to trustees.**

Defeasance clause.

**Requisition of
bondholders to
enforce remedies.**

**In case of default
as to interest or
principal, holders
of \$500,000 of
bonds may make
requisition.**

any such change, and to such other changes in the location of the track or depot or other buildings as in their judgment shall have become expedient; and to make and deliver the conveyances necessary to carry the same into effect; but any lands which may be acquired for permanent use, in substitution for any so released, shall be conveyed to the Trustees upon the trusts of these presents.

Article Seventh.— If the party of the first part shall well and truly pay the principal of the said bonds and every of them, and all interest thereon, when the same shall become payable, according to the tenor of the said bonds and the coupons issued therewith, and shall well and truly observe, perform, and keep all and singular the several things herein required to be by it performed or kept, according to the true intent and meaning of these presents, then, and in that case, all the estate, right, title, and interest of the said party of the second part, and of their successors in the trust hereby created, shall cease, determine, and become void; otherwise the same shall be and remain in full force and virtue.

Article Eighth.— It is hereby declared and agreed that it shall be the duty of the Trustees to execute the power of entry hereby granted, or the power of sale hereby granted, or both, or to take appropriate proceedings in equity or at law, to enforce the rights of the bondholders under these presents, upon requisition in writing as hereinafter specified; viz.,

1. If the default be as to interest or principal of any of the bonds aforesaid, such requisition upon the said Trustees shall be by holders of not less than five hundred thousand dollars in aggregate amount of the said bonds; and upon such requisition and a proper indemnification by the persons making the same to the Trustees against the costs and expenses to be by them incurred, it shall be the duty of the Trustees to enforce the rights of the bondholders under these presents by entry, sale, or legal proceedings, as they, being advised by the counsel learned in the law, shall deem most expedient for the interest of all the holders of the said bonds.

2. If the default shall be in the omission to comply with any other provision herein contained to be performed or kept by the said Company, then, and in such case, the requisition shall be as aforesaid; but it shall be within the discretion of the Trustees to enforce or waive the rights of the bondholders by reason of such default, subject to the power hereby declared of a majority in interest of the holder of the said bonds, by requisition in writing signed by such majority, to instruct the said Trustees to waive such default, or upon adequate indemnity, as aforesaid, to enforce their rights by reason thereof, provided that no action of the said Trustees or bondholders, or both, in waiving such default, or otherwise, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

First Mortgage
P. & A. V. (III.).

In case of other
default trustees may
exercise discretion
unless controlled by
majority in interest
of bondholders.

Article Ninth.—It is mutually agreed by and between the parties hereto, that in case one or more of the Trustees herein appointed shall die or resign or be removed, a successor or successors may be appointed by the party of the first part, subject to the approval of a majority of the bondholders, who shall be notified by a printed notice, published ten consecutive days in a newspaper in the city of Boston, to meet for the purpose of signifying their choice; and, in case they do not disapprove of the appointment of the party of the first part within one month after such notice shall have been first published, the Trustee or Trustees so appointed shall be authorized to act under this agreement. If the majority of the bondholders disapprove, and so notify the party of the first part, then the party of the first part shall nominate some other person or persons to be Trustee or Trustees, subject to the approval of the majority of the bondholders as aforesaid; and so on until Trustees shall be appointed to the satisfaction of such majority.

Provisions for
appointment of new
trustees in case
of vacancies.

PROVIDED, NEVERTHELESS, and it is hereby declared and agreed, that in case it shall at any time hereafter prove impracticable, after reasonable exertions, to appoint in the manner hereinbefore provided a successor, in case a vacancy may have happened in said trust, application in be-

First Mortgage
P. & A. V. (III.).

half of all the holders of the bonds secured hereby may be made by holders of the bonds secured hereby to the aggregate amount of five hundred thousand dollars, to any Circuit Court of the United States, or to any other court of competent jurisdiction for any judicial district in which any part of the aforesaid railroad may be situate, for the appointment of new Trustees.

Limitation of
liability of Trustees.

And it is further agreed that each Trustee is to be held liable for his own acts, and not for the acts of the other Trustee, and that neither Trustee shall be liable for the acts of any Agent or Agents appointed by them in good faith, to execute the powers conferred on them by this deed.

Attesting clause.

IN WITNESS WHEREOF, the said party of the first part has caused its corporate seal to be affixed to these presents, and the same to be executed by its *President* and attested by its *Secretary*; and the said parties of the second part have hereunto set their hands and seals to *signify* their acceptance of the said trust, the day and year first above written.

[L. s.]

JOSEPH NICKERSON,
President.

Attest:
M. D. THATCHER,
Secretary.

ISAAC T. BURR, }
ALDEN SPEARE, } *Trustees.*

Acknowledgment
of R. R. Co.

COMMONWEALTH OF MASSACHUSETTS, }
COUNTY OF SUFFOLK, } ss.
CITY OF BOSTON, }

I, Samuel Jennison, a Commissioner of the State of Colorado, residing in Boston, duly commissioned and qualified by the Governor, and under the laws of said State, to take the acknowledgment and proof of deeds, &c., to be used or recorded therein, do certify that on this fourth day of November A.D. 1878, personally appeared before me in said Boston, Joseph Nickerson, President of the

Pueblo and Arkansas Valley Railroad Company, personally known to me to be the same individual who has executed the foregoing instrument as such president, who being by me duly sworn did on oath depose and say, that he was such president of the Pueblo and Arkansas Valley Railroad Company that he resided in said Commonwealth of Massachusetts, that he knew the corporate seal of said railroad company; that the seal affixed to said instrument foregoing, is such corporate seal; and that he signed said instrument and said corporate seal was affixed thereto by authority of said company, and he acknowledged the said instrument to be his own free and voluntary act and deed, and the free and voluntary act and deed of said Company for the uses and purposes therein expressed.

First Mortgage
P. & A. V. (III.).

Affidavit of
President of R.R. Co.
as to corporate seal
and affixing thereof.

And on the same day also came before me, Isaac T. Burr, and Alden Speare, two of the individuals who have executed the same foregoing instrument as two of the trustees therein named, both personally known to me, and they severally acknowledged that they executed the same, and that it was their free and voluntary act and deed for the uses and purposes therein expressed.

Acknowledgments
of two of the trustees.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Boston, this 4th day of November, A.D. 1878.

[SEAL] SAMUEL JENNISON,
Commissioner for Colorado in Boston.

THE FOREGOING MORTGAGE was recorded in

Recording of
foregoing mortgage.

Las Animas County	on Nov. 12, 1878	in Book 8,	Page 344
Lake County	on Nov. 13, 1878	in Book "F,"	Page 210
Pueblo County	on Nov. 15, 1878	in Book 21,	Page 128
Fremont County	on Nov. 19, 1878	in Book "B,"	Page 557

CANCELLATION OF BONDS

ISSUED UNDER FIRST MORTGAGE
OF NOVEMBER 1, 1875, OF

**THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY (II.).**

Cancelled under Article *Third* of lease of
Nov. 15, 1875

on August 13, 1877,	\$22,000
on February 6, 1878,	38,000
on August 23, 1879,	54,000
on October 7, 1879,	19,000
on February 6, 1880,	<u>13,000</u>

Total amount cancelled, \$146,000

CANCELLATION OF BONDS

ISSUED UNDER FIRST MORTGAGE
OF OCTOBER 1, 1878, OF

**THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY (III.).**

Cancelled under Article *Third* of lease of
Nov. 15, 1875

on December 17, 1878,	\$35,000
on March 22, 1879,	23,000
on August 23, 1879,	46,000
on October 7, 1879,	5,000
on February 6, 1880,	<u>58,000</u>

Total amount cancelled, \$167,000

Total amount of bonds under both of the
above named mortgages cancelled, \$313,000

**PROVISIONS FOR REBATE IN
LEASE OF NOV. 15, 1875**

UNDER WHICH THE FOREGOING CANCELLATIONS WERE MADE.

The above named cancellations were made under the provisions of Article *Third* of the lease made by The Pueblo and Arkansas Valley Railroad Company (II.) to the Atchison Company dated November 15, 1875. Said provisions, which will be found printed in full on page 312, required the Atchison Company to pay as part of the rental for the leased road a rebate of fifteen per cent. on the gross earnings of the leased road, which rebate was to be applied, first, to the payment of interest on the First Mortgage Bonds of the Pueblo and Arkansas Valley R.R. Co., and second, to the purchase and cancellation of said First Mortgage Bonds so long as they could be purchased at a price not to exceed ten per cent. above the par value thereof.

Provision for rebate
on gross earnings
in lease of P. & A. V.
(II.) of Nov. 15, 1875.

On September 12, 1878 The Pueblo and Arkansas Valley Railroad Company (III.) was created by consolidation, but the said lease made by the former Company of the same name was treated as still in force until its cancellation on June 19, 1880; and the said provisions of Article *Third* of the said lease in regard to the cancellation of First Mortgage Bonds were treated as applying to the First Mortgage Bonds issued by the Pueblo and Arkansas Valley R.R. Co. (III.) under its mortgage of October 1, 1878 as well as to the First Mortgage Bonds issued by the former Company under its mortgage of November 1, 1875.

Formation of
P. & A. V. (III.) by
consolidation Sept. 12,
1878. Lease treated
as still in force
until June 19, 1880.

When the above named cancellation of the lease of November 15, 1875 was made, it was assented to by the holders of all the outstanding bonds under each of the said first mortgages, in consideration of the guaranteeing of the principal and interest of said bonds by the Atchison Com-

Cancellation of rebate
provisions of lease
assented to by
bondholders.

pany. The following form of guaranty was stamped on each of said bonds as presented:

Form of guaranty
and assent to
modification of
lease stamped on
P. & A. V. bonds.

"In consideration of the modification, dated June 19, 1880, of the lease providing for the payment of the principal and interest of the series of bonds of which the within is one, the Atchison, Topeka & Santa Fe Railroad Company guarantees such payment at maturity, the holder receiving this guarantee thereby assenting to said modification."

For cancellation of the said lease and votes authorizing the same, see *post*, p. 317.

SECOND MORTGAGE

OF

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY (III.).

THIS INDENTURE, made on this first day of July in the year of our Lord one thousand eight hundred and eighty-four, by and between THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, a corporation established under the laws of the State of Colorado, and the BOSTON SAFE DEPOSIT AND TRUST COMPANY, a corporation established under the laws of the Commonwealth of Massachusetts,

July 1, 1884.
Parties.

WITNESSETH:

THAT WHEREAS the said Railroad Company owns and possesses certain railroad and telegraph lines hereinafter described together with a franchise to construct, maintain, improve, equip, and operate the same and extensions and branches thereof, as authorized by its amended articles of incorporation and consolidation, all within the State of Colorado;

Franchises and
property of R.R. Co.

AND WHEREAS the said Railroad Company was created by the consolidation of a former Company of the same name with the Canon City and San Juan Railway Company by Articles of Merger Consolidation and Incorporation filed in the office of the Secretary of State of the State of Colorado on Sept. 12th, 1878;

Creation of R.R. Co.
by consolidation.

AND WHEREAS the said former Railroad Company of the same name on November 1, 1875 made a mortgage to Isaac T. Burr, George B. Wilbur and Alden Speare, Trustees, conveying to them the portion of the road of the present Company lying between its junction with the road of the Atchison, Topeka and Santa Fe Railroad Company at the eastern boundary of the State of Colorado and the city of Pueblo in said State, to secure seven per cent. first mort-

First Mortgage of
P. & A. V. (II.) of
Nov. 1, 1875.

Second Mortgage
P. & A. V. (III.).

First Mortgage of
P. & A. V. (III.) of
Nov. 1, 1875.

Proposed issue of
Second Mortgage
bonds for certain
purposes named.

gage gold bonds limited to fourteen thousand dollars per mile of completed railroad;

AND WHEREAS the said Railroad Company after an extension of its powers by an amendment of its Articles of Incorporation on July 30th 1878 and after its said consolidation with the said Canon City and San Juan Railway Company, did on Oct. 1, 1878 make a further mortgage to the said same three Trustees conveying to them all its railroads franchises and property then owned or thereafter to be acquired to secure its seven per cent. first mortgage gold bonds limited to fourteen thousand dollars per mile of completed railroad and providing for the taking up of the outstanding first mortgage bonds issued by the said former Company under the said mortgage of Nov. 1, 1875, by exchanging therefor said new first mortgage bonds, only a portion of said former outstanding first mortgage bonds however having been so exchanged by the holders thereof;

AND WHEREAS the said Railroad Company now desires to meet and discharge certain indebtedness already incurred for the maintenance and improvement of its said lines and property hereinafter described and the appurtenances thereof and to provide for further indebtedness which may hereafter from time to time be incurred for said purposes or for the extension of its said lines, and proposes for said purposes to issue now and from time to time its Second Mortgage Bonds, limited to such an amount that the whole incumbrance upon the entire railroad and property of the said Railroad Company including the bonds issued under the said first mortgages of Nov. 1, 1875, and Oct. 1, 1878, and the Second Mortgage Bonds issued hereunder shall not exceed twenty-five thousand dollars per mile of completed railroad. Said Second Mortgage Bonds to bear even date herewith, to be payable on the first day of July, A.D. 1905, and to bear interest payable semi-annually on the first days of January and July in each year at the rate of six per cent. per annum, both interest and principal being payable in lawful money of the United States of America at the agency of said Railroad Company in the city of Boston or at such other place or places as its direc-

tors may designate; said bonds to be issued, from time to time, in two forms, at the discretion of the directors:

Second Mortgage
P. & A. V. (III.).

Forms of bonds.

First.—For the amount of one thousand dollars each, with coupons attached, subject to registration on surrender of all the coupons thereof then or thereafter due;

Second.—In the form of registered bonds for any multiple of one thousand dollars, without coupons, both principal and interest of which shall be payable to the registered holder; such bonds being exchangeable for said one-thousand-dollar coupon bonds, at any time, on sixty days' notice to said Railroad Company;

Proposed Second
Mortgage.

AND WHEREAS the said Railroad Company has resolved to secure the punctual payment of the principal and interest of all of said Second Mortgage Bonds, by a mortgage or deed of trust upon its said railroads and all its corporate property and franchises of every nature and kind now owned or hereafter to be acquired together with the revenues and earnings of said railroads to the said Trustee for the benefit and security of the holders of said bonds; subject however to the said first mortgages; all of which said Second Mortgage Bonds are to stand equally secured by said mortgage or deed of trust, though issued and sold at different times, and are to be authenticated by a certificate upon each signed by the Trustee, to the effect that the bond so certified to is issued under and secured by said second mortgage or deed of trust, without which certificate no bond is to be deemed to be so issued or secured;

NOW THEREFORE the said Railroad Company, in consideration of the premises and of the acceptance by the said Trustee of the trust hereby created, in order to secure the payment of the principal and interest of its said Second Mortgage Bonds as the same shall become payable according to the tenor of said bonds and of the coupons thereto annexed, DOETH BY THESE PRESENTS GRANT, BARGAIN AND SELL, CONVEY, TRANSFER AND ASSIGN UNTO THE SAID TRUSTEE, its successors and assigns, all the property, franchises and privileges of the said Railroad Company, which it now has or hereafter may acquire, and all its right, title and interest therein, to wit:

Granting clause.

Railroad and property
mortgaged.

Second Mortgage

P. & A. V. (III.)

Description of
property mortgaged.

All its railroads and telegraphs already located and constructed or in process of construction or to be hereafter constructed as follows or however otherwise described:

The whole of the railroad of the said Railroad Company as now located and constructed, commencing at the western terminus of the Railroad of the Atchison, Topeka and Santa Fe Railroad Company at the west line of the State of Kansas, and thence running up the valley of the Arkansas River, through Bent and Pueblo Counties to Pueblo in said Colorado; also the whole of the railroad of the said Railroad Company as now located and constructed, commencing at a point on the line of railroad above described, at or near La Junta in said Bent County, and running southerly or southwesterly through said Bent County and Las Animas County, via Trinidad, to the south line of the State of Colorado at what is known as Raton Pass; also the whole of the railroad of the said Railroad Company, as now located and constructed, commencing at Pueblo aforesaid, and running westerly through said Pueblo County and Fremont County to the coal fields at or near Canon City in said Fremont County and thence southerly to Rockvale in said Fremont County; also all extensions and branches of and to any of said lines, which may hereafter be constructed under the amended articles of incorporation and consolidation of the said Railroad Company;

Together with all the property and rights appertaining to the said railroads and telegraphs and the equipment and operation thereof.

Including all railroads, telegraphs, road-beds, superstructures, rails, switches, ties, iron, chairs, bolts, splices, lands, depot grounds, station, engine and car houses, warehouses, depots, machine shops, and all other buildings; all water tanks, viaducts, culverts, bridges, fences, and timber, and all materials and supplies for the construction and equipment of said railroads; all engines, tenders, cars, and all kinds of rolling stock; all ways, rights of way, franchises, rights, privileges and immunities, now or hereafter pertaining to said railroads and telegraphs or to the appurtenances and appendages thereof; and all prop-

erty real and personal, whether now possessed or hereafter to be acquired by the said Railroad Company for the purposes of the construction, equipment or operation of the said railroads and telegraphs; and all the revenues, income and profits of the said Railroad Company which have been or may be derived from said mortgaged property.

Second Mortgage
P. & A. V. (III.).

TO HAVE AND TO HOLD all and singular the premises hereinbefore and hereby granted, bargained and sold, conveyed, transferred and assigned, and every part and parcel thereof, with all the appurtenances in any wise thereunto belonging and appertaining, to the said Trustee, its successors and assigns, to its and their own use and behoof forever, subject to the said first mortgages hereinbefore named.

Habendum clause.

IN TRUST NEVERTHELESS to and for the uses and purposes upon the conditions hereinafter set forth:

First.—These premises are upon the express condition that upon the payment of the principal and interest of all of said Second Mortgage Bonds, according to their tenor, then, and in that case, all the estate, right, title and interest of the said Trustee, or its successors in the trust, shall cease, determine and become void, and all the property and rights herein granted shall revert to and revest in the said Railroad Company, its successors and assigns, without any acknowledgment of satisfaction, reconveyance, re-entry or other act.

Defeasance clause.

Second.—Until default shall be made in the payment of the principal or interest of the said bonds, or any of them, or until default shall be made in respect to something by these presents required to be done by the said Railroad Company, the said Railroad Company shall be suffered and permitted to possess, manage, operate and enjoy the said hereinbefore granted railroads and telegraphs and every part thereof, with their equipments and appurtenances, and to take and use the tolls, income, rents, issues and profits thereof in the same manner and with the same effect as if this deed had not been made.

Possession of
mortgagor
until default.

Third.—The Trustee shall have full power, in its discretion, upon the request of the said Railroad Company, to

Power of trustee to
release real estate.

Second Mortgage
P. & A. V. (III.).

Until default R.R. Co.
may sell and replace
materials, rolling
stock, and personal
property.

R.R. Co. allowed
to make agreement
as to its telegraph
lines.

On default continued
for 60 days, trustee
may enter and take
possession.

convey by way of release or otherwise to the persons designated by the said Railroad Company any lands or property which, in its judgment and that of the said Railroad Company, it has become expedient to disuse for the purposes of the road. And, until default as aforesaid, the said Railroad Company may sell, exchange or otherwise dispose of such materials, rolling stock or personal property as have become old, worn out, disused, or undesirable, or are not needed for the purposes of the road, renewing or replacing the same by other property of equal or greater value; the said new materials and property thus substituted being covered by and subject to this mortgage.

Fourth.—Nothing in this Mortgage or Deed of Trust contained shall prevent the said Railroad Company from making or carrying out any agreement or arrangement for the building, management or operation of its telegraph lines or any part thereof.

Fifth.—In case the said Railroad Company shall fail to pay the principal, or any part thereof, or any instalment of interest, or any part thereof, of any of the bonds secured or intended to be secured hereby, when and where the same shall become due and payable according to the tenor and effect thereof, and for sixty days thereafter, or shall fail to pay and discharge within a reasonable time all taxes, charges, rates, levies and assessments which have been or may hereafter be imposed, assessed or levied upon the mortgaged premises, franchises or property, or shall fail, after sixty days' notice from said Trustee, to keep said property in reasonable repair and condition,—then, and in any such case, the said Trustee its successors in said trust and assigns may, at its discretion unless compelled to do so by a majority in interest of the holders of said bonds as hereinafter provided, enter upon and take possession of all and singular the said mortgaged premises, franchises and property herein mentioned or described and by itself or its agents duly constituted have, use and employ the said railroad and property and the appurtenances thereto belonging and proper for their use, making from time to time all repairs, alterations and additions thereto

by the said Trustee deemed needful, and paying all taxes due upon the same, and paying also any amounts due for interest or principal of any of the first mortgage bonds hereinbefore named, and, after deducting the expenses of all such repairs, alterations, additions, taxes and payments, and all sums necessary for its indemnification and reasonable compensation, apply the net income of the said premises and property to the payment *pro rata* of the interest and principal of all of said Second Mortgage Bonds hereby secured from time to time due and unpaid, or may procure the appointment of a receiver and the application of the net income as aforesaid.

Second Mortgage
P. & A. V. (III.).

Sixth.—And, in case of any default as aforesaid, and continuation thereof as aforesaid for sixty days, the said Trustee its successors in said trust and assigns may, at its discretion unless compelled to do so by a majority in interest of the holders of said bonds as hereinafter provided, cause the said premises, franchises and property to be sold at public auction, either at the city of Boston in the Commonwealth of Massachusetts or at the city of Pueblo in the State of Colorado, giving notice of the time, place and terms of said sale by publishing the same in some principal newspaper, both in said Boston and in said Pueblo at least once a week for three successive weeks, the last publication to be at least thirty days before the time appointed for said sale; with power to adjourn said sale from time to time at its discretion, and upon such sale to execute to the purchaser or purchasers thereat good and sufficient deeds of conveyance in fee simple, which shall be a bar against the said Railroad Company, its successors and assigns, and all persons claiming under it or them, of all right, interest or claim in or to the said premises, franchises and property, or any part thereof. In case of such sale, no purchaser other than the said Trustee shall be responsible for the application of the purchase-money. And the said Trustee shall first out of the proceeds of the said sale pay any amounts due for interest or principal of the said first mortgage bonds, and shall then after deducting the cost and expenses of the said sale and any costs and expenses it may

Power of sale on
default.

Second Mortgage
P. & A. V. (III.).

have incurred in or about the execution of this trust, and enough to indemnify and save itself harmless from all liabilities arising from this trust, and its reasonable compensation, apply so much of the proceeds of the said premises, franchises and property as may be necessary to the payment *pro rata* of the interest of said Second Mortgage Bonds hereby secured and of the principal thereof whether then or thereafter payable, and shall pay the residue of said proceeds, if there be any, to the said Railroad Company, its successors or assigns.

At any such sale, the said Trustee may, in its discretion in behalf of the holders of said Second Mortgage Bonds then outstanding, bid for and purchase the premises, franchises and property so sold, at a price not exceeding the whole amount due on the said first mortgage bonds and on said Second Mortgage Bonds then outstanding with interest accrued thereon, together with the proper costs and charges of the said Trustee and the expenses of the sale.

On default as to
interest continued
for 60 days, trustee
may declare
principal due.

Seventh.—In case of default in the payment of interest of any of said bonds, which default shall continue for sixty days, then the principal of all of said bonds shall, if the Trustee shall so elect, upon written notice by said Trustee to said Railroad Company, become and be at once due and payable, and shall be so held and deemed for the purposes of foreclosure and sale in either of the methods herein provided, and for all other purposes whatsoever.

Majority in interest
of bondholders may
compel trustee to
enforce either remedy
in case of default.

Eighth.—In case of any default in the payment of the interest or principal of said bonds, and continuation thereof as aforesaid, a majority in interest of the holders of the said bonds then outstanding, by an instrument in writing signed by them, and on their furnishing to the Trustee reasonable means and indemnity for the payment of services, expenses and liabilities to be incurred and performed in so doing, may compel the said Trustee to enforce either of the remedies by foreclosure or sale above provided in case of such default.

Power of sale may
be exercised at any
time after entry.

Ninth.—In case of any default as aforesaid, a foreclosure by entry and taking possession as hereinbefore provided shall not be held to waive the remedy by sale as also here-

inbefore provided, but said power of sale may be exercised by said Trustee, its successors in said trust or assigns, at any time while such possession under such entry continues, upon compliance with the terms above provided in regard to the manner, place and notice of such sale. The said provisions hereinbefore contained in regard to foreclosure by entry and possession or by sale shall not be deemed to exclude any other remedy at law or in equity to enforce this mortgage; but said Trustee may in any case avail itself of such other remedy, and shall be entitled to the appointment of a receiver and to the specific performance of any of the covenants herein contained.

Second Mortgage
P. & A. V. (111.).

Foregoing provisions
not exclusive of
other remedies at
law or in equity.

The Trustee may in case of default apply to any court of competent jurisdiction for instructions as to matters not herein expressly provided for.

Trustee may apply
for instruction.

Tenth.— It is understood and agreed that in no case shall any claim be made under or any advantage taken of any valuation, appraisement, redemption or extension laws by said Railroad Company, its successors or assigns, to prevent such entry, sale and conveyance as aforesaid, or any foreclosure under this mortgage.

No advantage to be
taken of any
stay laws.

Eleventh.— The said Railroad Company for itself and its successors and assigns doth hereby covenant and agree with the said Trustee and its successors and assigns to pay the principal and interest of all of said Second Mortgage Bonds, and all taxes, charges, rates, levies, and assessments upon the mortgaged premises, property and franchises, to keep the mortgaged property in reasonable repair and condition, and to execute and deliver any further reasonable or necessary conveyances of said premises, franchises and property, or any part thereof, whether now owned or hereafter to be acquired, to the said Trustee, its successors in said trust and assigns, which may be required for the more fully assuring and conveying said premises, franchises and property, and carrying into effect the objects and purposes of these presents, and to do at its own expense all things necessary and proper to be done, in order to make and keep valid and intact this trust and mortgage upon the aforesaid premises, franchises and property.

Covenants of
R. R. Co.

Covenant of further
assurance.

Second Mortgage
P. & A. V. (III.).

Compensation and
expenses of trustee.

Trustee entitled
to be indemnified
before acting.

Limitation of
liability of trustee.

Word "trustee" to
apply to successors.

Manner of resignation
of trustee.

Provisions for
appointment of new
trustee or trustees in
case of vacancy.

Twelfth.—The compensation and all reasonable expenses of the Trustee in discharge of the trust shall be paid by the said Railroad Company as they are incurred, or otherwise, out of the trust estate, on which they are hereby made a charge. It is further agreed that in no case shall the Trustee be required to act hereunder for the enforcement of the several provisions hereof until it is furnished with sufficient funds for the purpose, or is suitably indemnified; and further that for the conduct or omissions of any counsel, agent or attorney employed by it in the execution of this trust, said Trustee shall not be responsible, if the same shall have been selected by it in good faith; and that said Trustee shall only be accountable for wilful default or misconduct of itself, its officers and servants in the management of the said trust.

Thirteenth.—The word "Trustee" as used in this instrument shall be construed to mean the trustee or trustees for the time being, whether original, substituted or new; and such trustee or trustees shall be vested with all the estate, powers, rights, authority and privileges hereby granted to and conferred on the said Boston Safe Deposit and Trust Company.

Any trustee hereunder may resign and discharge itself or himself of and from the trust hereby created, by notice in writing to the said Railroad Company three months before such resignation shall take effect, or such shorter time as the said Railway Company may accept as adequate notice, and upon the due execution and delivery of such conveyances to its or his successor as the said Railroad Company shall require in order to transfer the trust.

In case of the resignation, removal, dissolution or death of any trustee under this Deed of Trust, a new trustee or trustees shall be appointed by the said Railroad Company by an instrument in writing under its seal, and notice thereof given by an advertisement published at least once a week for three successive weeks in a daily newspaper published in said Boston, and unless a majority in interest of the holders of said bonds then outstanding shall, within thirty days from the date of such last publication, make ob-

jection by an instrument in writing signed by them and delivered to the said Railway Company, the said appointment or appointments shall at the expiration of said thirty days be considered as assented to and confirmed by the holders of the bonds secured hereby.

Second Mortgage
P. & A. V. (III.).

In case such objection by a majority in interest of the holders of said bonds shall be so made as aforesaid, the said Railroad Company shall thereupon apply to the Supreme Judicial Court of Massachusetts, or other court of competent jurisdiction, to appoint instead as trustee or trustees such other corporation or persons as to such court shall seem meet.

Upon the resignation, removal, dissolution or death as aforesaid of any trustee under this mortgage, all its or his powers and authority shall cease; but said trustee shall on demand execute a deed or deeds of conveyance, to vest in the trustee appointed in its or his place, and upon the trusts herein expressed all the property and rights which may be at the time held upon said trusts.

Provisions for
transferring trust.

The said BOSTON SAFE DEPOSIT AND TRUST COMPANY thereby accepts the trust conferred upon it by these presents upon the terms and conditions hereinbefore set forth.

Acceptance of trust
by Trust Co.

IN WITNESS WHEREOF, the parties have caused their respective corporate seals to be affixed to these presents, and also to a counterpart hereof, and the same to be signed by their respective Presidents, and attested by their respective Secretaries, on the day and year first above written.

Attesting clause.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY,

By WM. B. STRONG,

[SEAL]

President.

Attest:

M. D. THATCHER, *Secretary.*

BOSTON SAFE DEPOSIT AND TRUST COMPANY.

By F. M. STONE,

[SEAL]

President.

Attest:

EDWARD P. BOND, *Secretary.*

Second Mortgage
P. & A. V. (III.).

STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.

Acknowledgment.

Personally appeared before me the undersigned, a Notary Public within and for the County and State aforesaid, William B. Strong, whose name is subscribed to the foregoing instrument, the said Strong being personally known to me, and personally known to me to be the President of the said Pueblo and Arkansas Valley Railroad Company, and acknowledged that the said instrument was signed by him and executed by the said company as therein set forth freely and voluntarily for the purposes therein named.

WITNESS my hand and seal notarial on this sixth day of December in the year of our Lord, one thousand eight hundred and eighty-four.

A. R. ARBUCKLE,
Notary Public.

[SEAL]

Recording of
foregoing mortgage.

THE FOREGOING MORTGAGE was recorded in

Las Animas County	on Dec. 9, 1884	in Book 24,	Page 1
Pueblo County	on Dec. 12, 1884	in Book 45,	Page 167
Bent County	on Dec. 16, 1884	in Book 6,	Page 376
Fremont County	on Dec. 20, 1884	in Book 27,	Page 247

[FORM OF REGISTERED BOND UNDER FOREGOING MORTGAGE.]

Form of Second
Mortgage Registered
bond under foregoing
mortgage.

UNITED STATES OF AMERICA, STATE OF COLORADO.

THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY.

Nos.

\$

SIX PER CENT. SECOND MORTGAGE BOND
REGISTERED.

KNOW ALL MEN BY THESE PRESENTS, that The Pueblo and Arkansas Valley Railroad Company, a corporation established under the laws of the State of Colorado, acknowledges itself indebted to the registered holder hereof in the sum of _____ Thousand Dollars, which sum said Railroad Company promises to pay to such registered holder on the first day of July, one thousand nine hundred and five, and also interest thereon, at the rate of six per cent. per annum (free of all government tax or duty, which, if assessed, is to be paid by the said Railroad Company) payable semi-annually on the first days of January and July in each year until said principal sum shall be paid, both interest and principal being payable in lawful money of the United States of America at the agency of said Railroad Company in Boston or at such other place as its directors may hereafter designate. No recourse shall be had for the payment of the principal or interest of this bond to any individual liability of any stockholder, officer or director of said Railroad Company.

This bond is one of the Second Mortgage Bonds of the said Railroad Company, which bonds are limited to such an amount that the whole encumbrance upon the entire railroad and property of the said Railroad Company, including the bonds issued under the first mortgages upon the said railroad and the bonds issued under said Second Mortgage shall not exceed twenty-five thousand dollars per mile of completed railroad, and are secured by a Mortgage or Deed of Trust bearing date the first day of July, one thousand eight hundred and eighty-four, duly executed and delivered by the said Railroad Company to the Boston Safe Deposit and Trust Company,

**Form of Second
Mortgage Registered
Bond under foregoing
Mortgage.**

a corporation established under the laws of the Commonwealth of Massachusetts, as Trustee, conveying to the said Trust Company all the railroad, franchises and other property of the said Railroad Company, in trust, to secure the punctual payment of the principal and interest of the said Second Mortgage Bonds, subject to first mortgages dated respectively Nov. 1, 1875, and Oct. 1, 1878. This bond is transferable only on the books of the said Railroad Company at its agency in Boston or at such other place as its directors may hereafter designate. It is exchangeable at par at any time, on sixty days' notice to the said Railroad Company, for bonds for the amount of one thousand dollars each, with coupons attached, issued under and in conformity with the terms of said mortgage, such bonds to be respectively numbered with the several numbers embraced in this bond.

This bond shall be valid only when authenticated by the certificate hereon of the said Trust Company that it is one of the bonds secured by the said Mortgage or Deed of Trust.

IN WITNESS WHEREOF the said Railroad Company has caused its corporate seal to be hereto affixed and these presents to be signed by its President and attested by its Assistant Treasurer on this first day of July one thousand eight hundred and eighty-four.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

By

President.

Attest:

Assistant Treasurer.

TRUSTEE'S CERTIFICATE.

The Boston Safe Deposit and Trust Company hereby certifies that this bond is one of the Second Mortgage Bonds of The Pueblo and Arkansas Railroad Company secured by the within named Mortgage or Deed of Trust to this Company.

BOSTON SAFE DEPOSIT AND TRUST COMPANY.

By

Treasurer.

CONSTRUCTION OF THE ROAD

OF

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY (II.)

FROM THE EASTERN BOUNDARY OF THE STATE OF COLORADO TO
PUEBLO, AND THE ISSUING OF CAPITAL STOCK AND FIRST
MORTGAGE BONDS OF THE SAID COMPANY TO THE
COMMONWEALTH CONTRACT COMPANY
FOR SAID CONSTRUCTION.

AGREEMENT

BETWEEN

THE PUEBLO AND SALT LAKE RAILWAY
COMPANY,

THE COLORADO AND NEW MEXICO RAILROAD
COMPANY,

AND

ATCHISON, TOPEKA AND SANTA FE RAILROAD
COMPANY.

THIS INDENTURE of these parts made in triplicate Oct. 27, 1874.
this twenty-seventh day of October in the year of our Lord
eighteen hundred and seventy-four by and between the
Pueblo & Salt Lake Railway Company, a corporation duly Parties.
established by law in the Territory of Colorado, party of
the first part, the Colorado & New Mexico Railroad Com-
pany, a corporation duly established by law in said Colo-
rado, party of the second part, and the Atchison, Topeka
& Santa Fe Railroad Company, a corporation duly estab-
lished by law in the State of Kansas, party of the third
part,

WITNESSETH, *First*, That the said parties of the first
and second parts do hereby agree each with the other in
consideration of the agreements of the other parties herein

Agreement of
P. & S. L. and
C. & N. M. to form
P. & A. V. (II.) by
consolidation.

Agreement of
P. & S. L. and
C. & N. M. with
Atchison Co.

contained to unite their interests and energies from the date of this instrument for the purpose of building a railroad from Granada to Pueblo in said Colorado, and to this end that within ninety days from the date hereof they will unite in organizing a new railroad company under the name of the Pueblo and Arkansas Valley Railroad Company, whose road shall extend from the western terminus of the Atchison, Topeka and Santa Fe Railroad in said Kansas to Pueblo in said Colorado, with such further extensions as may at any time be agreed upon.

P. & S. L. and
C. & N. M. to turn
over all property and
franchises to new
company.

Second. The said parties of the first and second parts do further covenant and agree each with the other, and with said party of the third part, that they will as soon as the organization of said new Company is completed, each sell, transfer and turn over to said new Company by proper and sufficient assignments, transfers and conveyances all their franchises, rights and property of every name, nature and description, receiving therefor payments as follows:

New Co. shall issue
first mortgage bonds
limited to \$15,000
per mile.

Third. Said new Company shall issue bonds bearing interest payable semi-annually at the rate of seven per cent. per annum, payable principal and interest in United States Gold Coin, and secured by a first mortgage on the property of said new company in the usual form, to the amount of \$15,000 per mile of main track of which \$1,000 per mile shall be reserved from distribution to meet the deficiency in the interest on said bonds the first year, or for other contingencies. Said party of the second part shall receive in full payment and satisfaction for the property, franchise and rights so by it transferred to said new company \$188,362.93 payable in such first mortgage bonds at the rate of eighty per cent. of their par value, and \$165,000 in fully paid stock of said new company at its par value, and also \$1,000 in said first mortgage bonds, which shall cover rents, salaries and all incidental expenses up to the date of the organization of said new company, except the expenses of engineering from this date.

C. & N. M. shall
receive \$188,362.93 in
said bonds and \$165,000
in capital stock of
new Co. and \$1,000 in
bonds for expenses.

P. & S. L. shall
receive \$350,000 in
stock, \$60,000 in bonds,
and \$5,000 in bonds
for expenses.

Said party of the first part shall receive in full payment and satisfaction for the property, franchise and rights so by it transferred to said new Company \$350,000 in full paid

stock of said new company at its par value to be used by said party of the first part to fulfil and meet its contract and agreement with the County of Pueblo and \$60,000 in the first mortgage bonds aforesaid to fulfil and meet its contracts for grading, and also \$5,000 in said first mortgage bonds in full payment and satisfaction for all expenses to said party of the first part for organizing, rents, salaries and incidental expenses up to the date of the organization of said new company, except the expenses of engineering, and all subscriptions already made to the stock of said party of the first part shall be and inure for the benefit of said new company and all parties who have so subscribed shall be entitled to receive in exchange for the stock so subscribed for, stock of said new company, in amounts equal in par value to the amounts so subscribed, and they shall have respectively the same interests and rights and be subject to the same obligations and duties in respect to said new stock as they had or were subject to, in the case of said stock of said party of the first part respectively held by them at the time of such exchange, and all liabilities and contracts of said first party except those provided for in this section are to be assured by said new company.

Agreement of
P. & S. L. and
C. & N. M. with
Atchison Co.

Fourth. The stock of said new company shall not exceed \$15,000 per mile of main track, exclusive of stock which may be issued to Counties and Towns in place of their bonds contributed and donated to said roads, and such stock as shall be issued as hereinafter provided to said party of the third part for bonds redeemed.

Stock of New Co. not
to exceed \$15,000 per
mile, exclusive of
stock issued to
counties and towns.

Fifth. The respective chief engineers of the parties of the first and second parts shall co-operate and act in concert in establishing the line of road, grades etc. of the said new road, and in case of any essential difference between them, the matters in dispute shall be referred to the boards of directors of both of said parties. And for the sake of harmonious action it is further agreed between the said parties of the first and second parts, that all actions of either board of directors in the premises, after this date shall be notified to the other board by a copy of the records, certified by the Secretary.

Chief engineers of
P. & S. L. and
C. & N. M.
to co-operate.

Directors of each
company to notify
other board of all
action.

Agreement of
P. & S. L. and
C. and N. M. with
Atchison Co.

P. & A. V. (II.) to
construct and
maintain a freight
and passenger station
in City of Pueblo
within one mile of the
new court house.

Line from Pueblo to
West Las Animas.

Stations and depots
at Pueblo.

P. & A. V. (II.)
as soon as organized
to lease its road and
property to
Atchison Co.
for 30 years.

Atchison Co. to
furnish rolling stock
and to pay a fair
per cent. of gross
earnings as rental, or
operate road at cost,
and to transport
materials for
construction of new
road at cost.

Atchison Co. agrees
to give P. & A. V. (II.)
a traffic guarantee for
30 years, for a rebate
to be applied to meet
interest on bonds and
to the purchase and
cancellation of bonds.

Sixth. It is further understood and agreed that the said Pueblo & Arkansas Valley Railroad Company shall construct and maintain in the city of Pueblo within one mile of the new court house, such freight and passenger station and depots as may be necessary for the transaction of business; such passenger station to be a creditable brick structure; that the said party of the first part reserve the right to locate their entire line of road from the City of Pueblo to West Las Animas but the location of said line shall be substantially the same as made by A. A. Robinson, engineer, and the maximum grade shall not exceed that adopted by said Robinson, without mutual consent, and also to establish their stations and depots along said line in a manner satisfactory to the chief engineer of the parties of the first and second parts, and to locate their stations and depots at Pueblo in accordance with the provisions set forth in the formal subscription made by Pueblo County to the stock of the said party of the first part October 6th, A.D. 1874.

Seventh. It is further understood and agreed that the said new company shall immediately upon the completion of its organization, lease its road, property and appurtenances to the said party of the third part for the term of thirty years and said lease shall be drawn in suitable form and provide that said party of the third part shall furnish all rolling stock and operate said road as a part of their main line and pay a fair per cent. of the gross earnings of said road as rental or operate said road at cost, at the option of said Pueblo & Arkansas Valley Railroad Company, and said third party covenants and agrees in consideration of the premises, that it will accept said lease, and further that it will transport materials for the construction of said new road so far as may be, over its road, at the actual cost of such transportation.

Eighth. Said third party further covenants and agrees to give to the said Pueblo & Arkansas Valley Railroad Company, a traffic guarantee for thirty years whereby it shall pay said new company a reasonable rebate on all business delivered to or received from the line of said new

company, said rebate to be applied first to make up any deficiency of the earnings to meet the interest on the bonded debt aforesaid, and second to the purchase of said bonds in open market, which bonds shall be cancelled and said party of the third part shall receive in the stock of the Pueblo and Arkansas Valley Railroad Company an amount at par value equal to the par value of the bonds so redeemed.

Agreement of
P. & S. L. and
C. & N. M. with
Atchison Co.

Ninth. It is agreed by and between the parties hereto, that in organizing the Pueblo and Arkansas Valley Railroad Company, said parties of the first and second parts shall each select and designate three trustees and the said party of the third part shall select and designate two trustees, and the eight trustees so selected and designated shall be the trustees in the organization of the said Pueblo and Arkansas Valley Railroad Company.

P. & S. L. and
C. & N. M. each to
name 3 trustees of
P. & A. V. (II.) and
Atchison Co.
to name 2.

IN WITNESS WHEREOF the said first party has caused this instrument to be signed and executed in its name and behalf by Henry C. Thatcher and Wilbur F. Stone, its committee, hereto duly authorized, and said parties of the second and third parts have caused their respective corporate seals to be hereto affixed and this instrument to be signed and executed by their respective presidents and attested by their respective secretaries the day and year first above written.

Attesting clause.

THE PUEBLO & SALT LAKE RAILWAY COMPANY.

By HENRY C. THATCHER, }
WILBUR F. STONE, } *Committee.*

COLORADO & NEW MEXICO RAILWAY COMPANY.

By JOS. NICKERSON,
[SEAL] *Prest.*

Attest:

THOS. NICKERSON, *Secty.*

THE ATCHISON TOPEKA & S. FE R.R. CO.

By THOS. NICKERSON,
Attest: *Prest.*

CHAS. W. PIERCE,
[SEAL] *Scc'y.*

Carrying out of
foregoing Agreement
by formation of
P. & A. V. (II.)

IN ACCORDANCE WITH THE TERMS of the foregoing agreement The Pueblo and Salt Lake Railway Company and The Colorado and New Mexico Railroad Company were consolidated with The Pueblo and Arkansas Valley Railroad Company (I.), by Articles of Consolidation filed on September 29th, 1875, into the Pueblo and Arkansas Valley Railroad Company (II.). See *ante*, p. 18.

Fixing of rebate under
foregoing Agreement
and subsequent
modification thereof.

THE REBATE PROVIDED FOR in the eighth article of the foregoing agreement was fixed by a vote of the directors of the Atchison Company on February 1, 1875 at "15% of the gross earnings of said business." On April 5, 1875 the said directors voted to modify the said rebate to conform to the Financial Plan of March 1, 1875. See *post*, p. 178.

**CIRCULAR OF ATCHISON COMPANY
OF JANUARY 15, 1875.**

Atchison, Topeka & Santa Fé Railroad Co.
53 DEVONSHIRE STREET.

BOSTON, Jan. 15, 1875.

To the Stock and Bond-holders,

Gentlemen:

The Directors propose to publish a complete report of the condition of your property, as soon as the accounts of the fiscal year, ending December 31, 1874, can be properly audited and reliable estimates be made of the probable earnings and expenses of the road for the present year.

Circular of
Jan 15, 1875,
describing proposed
road of P. & A. V. (II.).

In the mean time, in answer to many letters and personal inquiries from parties in interest, we take pleasure in informing you that the floating debt is paid, excepting the current liabilities in Kansas, to meet which we have ample cash assets in hand. Also, that the funding scheme has been already so far successful, that only about seven per cent. of the coupons remain outstanding; and this amount is being daily reduced, as it becomes apparent to the holders that it is clearly for their interest to fund their coupons.

It is well known that the past year has been unfavorable to the agricultural interest in many parts of the West, and including Kansas. But for this, the sales of our land, and the earnings of our road, would have been materially increased. Notwithstanding this fact, our net earnings and our cash receipts from the sales of land have equalled our estimates made at the commencement of the year.

The future prospects of the Company are favorable; and, from all the information in our possession, we are encouraged to believe that the Company will hereafter meet its coupons at their maturity.

The Directors are now engaged in negotiations, by which we hope to secure the building of a road from Granada to Pueblo, in Colorado.

Circular of Atchison
Co. of Jan. 15, 1875,
describing proposed
road of P. & A. V. (II.).

Pueblo is situated on the Arkansas River, at the foot of the Rocky Mountains, and is destined, at no distant day, to become the most important city of Southern Colorado. It lies in the direct route to the San Juan district, which is now attracting so much attention in financial circles from the richness of its gold and silver mines.

The importance to our property of this extension of our line to the Rocky Mountains, where we can secure the increasing trade of Southern Colorado and New Mexico, can hardly be overestimated.

It will place us within easy reach of abundant supplies of coal and lumber; open a market in the mining districts for the agricultural products of the Arkansas Valley; and place our line in a favorable position to secure the mountain travel, which is yearly increasing, as the climate and scenery are becoming known, and the facilities for travel are improved.

Full particulars of the plans for securing this extension will be shown at this office.

Respectfully yours,

CHAS. W. PIERCE,
Treasurer.

Approved,

F. H. PEABODY,
JOSEPH NICKERSON,
ISAAC T. BURR,
THOMAS NICKERSON, } *Finance Committee.*

SUPPLEMENT TO FOREGOING CIRCULAR.

Atchison, Topeka and Santa Fe Railroad Co.

Boston, March 1st, 1875.

Dear Sir:

Supplement of
March 1, 1875.

The negotiations referred to in our circular of January 15, 1875, for a Railroad connecting our line with the Colorado Railroads at Pueblo, are successfully concluded, and we now in accordance with our invariable rule, offer you a proportion of the stock and bonds of the new company as follows:

Each holder of the A. T. & S. F. R.R. Co. stock can subscribe to the new company in the proportion of two thousand dollars (\$2000) for each hundred shares of stock which he holds, and a subscription of two thousand dollars (\$2000) gives two thousand dollars (\$2000) in stock, and twenty-five hundred dollars (\$2500) in bonds of the new company.

Supplement to
foregoing Circular
offering terms of
subscription to stock
and bonds of
P. & A. V. (II.)

Holders of less than a hundred shares can arrange for a proportional subscription by calling at the office of the company.

The financial plan annexed will give particulars of the scheme.

Our superintendent estimates the gross earnings of the A. T. & S. F. R.R. for the year 1875 at two thousand six hundred sixty-two dollars (\$2662) per mile.

We believe that the extension will earn at least two thousand dollars (\$2000) per mile, which will amount on one hundred and fifty miles, to three hundred thousand dollars (\$300,000).

This business transported over the A. T. & S. F. R.R., an average of four hundred miles, would equal gross earnings from this source eight hundred thousand dollars (\$800,000).

Thirty-five per cent. under lease on	\$300,000	is	\$105,000
Fifteen per cent. rebate on	800,000	is	<u>120,000</u>
Estimated net earnings for the new road in the first year,			\$225,000
While the interest on \$1,800,000 bonds at 7 per cent.,	\$126,000		
10 per cent. premium gold	<u>12,600</u>		
			\$138,600

The Directors are confident that under the proposed plan, these bonds will prove a safe and profitable investment, and in proof of their confidence they, with two or three friends, stand ready to take one-half of the proposed subscription on precisely the same terms as are now offered to the stockholders.

The success of this scheme will make us an important trunk line to the Rocky Mountains, and give us a valuable through business, develop mining, coal and lumber business, and increase the facilities for pleasure travel.

Supplement to
foregoing Circular.

We are aware that it is an inauspicious moment to offer any railroad scheme; but we are confident that you will see the vast importance of this road to your interest, and that you will join in the subscription.

On the morning of April 1, 1875, the directors will dispose of the balance not taken by the stockholders at that time.

Respectfully yours,

THOMAS NICKERSON,

President.

[Approved]

F. H. PEABODY,
JOSEPH NICKERSON,
ISAAC T. BURR,
THOMAS NICKERSON, } *Finance Committee.*

FINANCIAL PLAN ANNEXED TO FOREGOING SUPPLEMENT.

Atchison, Topeka and Santa Fé Railroad Co.

53 DEVONSHIRE STREET.

BOSTON, March 1st, 1875.

FINANCIAL PLAN.

Financial Plan of
March 1, 1875.

It is proposed within thirty days from date to organize a Railroad Company under the general laws of the Territory of Colorado, under the name of the PUEBLO & ARKANSAS VALLEY RAILROAD COMPANY, for the purpose of building a Railroad from the terminus of the A. T. & S. F. R.R., at the west line of the State of Kansas, up the Arkansas Valley to Pueblo in Colorado.

Proposed issue of
bonds.

Said Railroad Company will issue a first mortgage seven (7) per cent. Gold Bond, interest payable semi-annually on said road of \$14,000 per mile of main track, of which bonds \$2,000 per mile shall be reserved for future improvements, and shall never be issued unless the same is duly authorized at a regular meeting of the Trustees of said Railroad Company, called for the purpose, and by a vote of three-fourths of said Trustees. The stock issued by said Railroad Company shall never exceed \$15,000 per mile,

Of stock.

except such as shall be issued to counties and towns in exchange for bonds, and to the A. T. & S. F. R.R. Co. for bonds purchased by said road.

Financial Plan of
March 1, 1875.

Said bonds and stock shall only be issued as said road shall be completed in sections of not less than twenty-five miles; and said bonds shall be issued bearing interest from the date said road is completed to Pueblo, as nearly as possible; said first mortgage bonds shall be further secured by a rebate, to be paid by the A. T. & S. F. R.R. Co., on all business delivered to or received from said road at Sargent, for the term of thirty years, which rebate shall be at first, fifteen per cent. of the gross earnings on said business, and shall be reduced to twelve (12) per cent., when the total of cancelled bonds and sinking fund amounts to one-fifth of the original issue. Also to nine (9) per cent., when the total of cancelled bonds and sinking fund amounts to two-fifths of the original issue, and so on, until the bonds are all cancelled or secured by a sinking fund of equal amount, when the rebate shall cease entirely. Said rebate to be applied,

Bonds and stock to be
issued as sections of
25 miles are completed.

Bonds to be further
secured by rebate.

Application of rebate.

First, To pay any interest on said bonds not provided for by the earnings of said road.

Second, To the purchase by advertisement of said bonds; the bonds so purchased to be immediately cancelled and converted into stock for the benefit of the A. T. & S. F. R.R. Co., and when the Trustees are no longer able to buy the bonds at or under 110, they shall invest the surplus in their hands in securities, which in their opinion are perfectly safe, and hold said securities as a sinking fund to provide for the bonds at their maturity.

And for each five thousand dollars (\$5,000) added to said sinking fund, the A. T. & S. F. R.R. Co. shall be entitled to five thousand dollars (\$5,000) of stock in lieu of receiving said stock later upon cancellation of the bonds paid by said sinking fund.

An interest account shall be made with the subscribers hereto, at the rate of seven (7) per cent. gold, on the par value of bonds received.

Interest account with
subscribers.

Messrs. F. H. Peabody and Joseph Nickerson, acting as Trustees for the subscribers, shall have authority to sell

Authority of Peabody
and Nickerson,
Trustees.

Financial Plan of
March 1, 1875.

the whole or any part of the bonds at not under 80 for the benefit of the subscribers.

Assessments.

Each subscriber shall be assessed pro rata, with all others, to the extent of his subscription, and no assessment shall exceed twenty per cent. monthly, and the first assessment shall not be laid earlier than April 1st, 1875, on which date the subscription will be closed.

Stock to be subscribed
for at par with bonus
in bonds.

Each person who shall subscribe for \$800 of Capital Stock at par, and pay for the same, will receive in addition thereto, \$1,000 in the First Mortgage Bonds of said Company.

[Here follows form of subscription.]

MODIFICATION OF REBATE TO CONFORM TO FOREGOING FINANCIAL PLAN.

A., T. & S. F. Directors
April 5, 1875.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE ATCHISON COMPANY, HELD ON APRIL 5, 1875.

On motion of Mr. Cheney,

VOTED, That the action taken by the board Feby. 1st, 1875 in reference to making a rebate to the P. & A. V. R.R. Co. be so far modified as to conform to the "Financial Plan" of March 1st, 1875, as hereto annexed.

[Here follows in the record a copy of the Financial Plan of March 1, 1875.]

TURNING OVER OF SUBSCRIPTION TO TRUSTEES.

A., T. & S. F. Directors
May 3, 1875.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE ATCHISON COMPANY, HELD AT BOSTON ON MAY 3, 1875.

On motion of Mr. Peabody,

VOTED that the subscription to the Pueblo & Arkansas Valley R.R. Co. having been offered to the stockholders of the A. T. & S. F. R.R. Co. and ample time having been allowed to receive answers from all, the subscription be now turned over to the Trustees of the Pueblo & Arkansas Valley R.R. Co.

AGREEMENT

BETWEEN

**THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY (II.)**

AND THE

COMMONWEALTH CONTRACT COMPANY

FOR THE CONSTRUCTION OF THE ROAD OF SAID FIRST NAMED COM-
PANY AND PAYMENT THEREFOR IN FIRST MORTGAGE
BONDS AND CAPITAL STOCK OF SAID COMPANY
AND MUNICIPAL AND COUNTY BONDS.

THIS INDENTURE made this eighteenth day of No- Nov 18 1875.
vember 1875 A.D. between the Pueblo and Arkansas Valley Parties.
Railroad Company a corporation created and existing under
the laws of the Territory of Colorado and hereinafter
named as the said Railroad Company party of the first part
and the Commonwealth Contract Company a corporation
created and existing under the laws of the State of Penn-
sylvania and hereinafter called the said Contract Company,
parties of the second part,

WITNESSETH:

THAT WHEREAS said Railroad Company desires to have Proposed construction.
its Railway and Telegraph line built and completed from
the Eastern boundary line of Colorado at the Western
terminus of the Atchison, Topeka and Santa Fe Railroad
to Pueblo in said Colorado and said Contract Company
desires to build and complete the same.

NOW THEREFORE it is mutually covenanted and Agreement.
agreed by each in consideration of the covenants and agree-
ments of the other herein contained as follows:

ART. 1. Said Contract Company covenants and agrees to Contract Co. agrees to
build road.
construct and complete for the said Railroad Company a
single track railroad with a gauge of 4 feet 8½ inches and
a telegraph line in accordance with detailed specifications

Agreement between
P & A. V. (II.) and
Com'lth Contr. Co.

hereunto annexed and marked "A" and made a part of this contract from the Eastern boundary line of Colorado at the Western terminus of the Atchison, Topeka and Santa Fe Railroad to Pueblo in said Colorado an estimated distance of 148 miles under the direction of the engineer of the said Railroad Company and in so doing to conform in all essential respects with the maps and drawings of said Railroad Company deposited or filed in the office of the Secretary of Interior in Washington and to the profiles, specifications and requirements of the said Railroad Company both as to quality of material and mode of construction.

It being further understood and agreed that the entire work shall be done and materials be furnished by said Contract Company to the satisfaction and acceptance of the Board of Directors of said Railroad Company and that the general style and finish of the work and quality of the material in extent and fitness shall be equal to those of the Atchison, Topeka and Santa Fe Railroad at the time the same was completed and ready for commercial business throughout its whole extent.

Contract Co. to accept
work already done
and reimburse the
respective parties
who have done it.

ART. 2. WHEREAS the Colorado and New Mexico Railroad Company and the Pueblo and Salt Lake Railway Company and the said Railroad Company, party of the first part, have already expended certain sums of money for work necessary to be done in building said road. It is mutually agreed that said Contract Company shall receive and accept the work so done, and pay the respective parties, the cost price thereof, and shall further reimburse said Railroad Company, party of the first part for all costs and expenses already incurred or which may be incurred in acquiring the necessary rights of way for the construction of its road and the grounds for shops, depots and other buildings required for carrying on its business, and shall assume, fulfil and save said Railroad Company harmless from all contracts hitherto made and liabilities incurred by said Railroad Company in regard to work necessary for the complete fulfilment of this contract.

And to save the
R R. Co. harmless on
previous contracts.

Road to be completed
by May 1, 1876.

ART. 3. Said road shall be built in divisions of such extent and to be respectively commenced and completed at

such times as shall be hereafter mutually agreed upon by the parties hereto and taking into consideration the ability of said Contract Company to negotiate the securities to be received from said Railroad Company at reasonable rates but said road throughout its whole extent be completely ready for commercial business on or before the first day of May 1876, A.D.

Agreement betw
P. & A. V. (II.) a
Com'ltb Contr. C

ART. 4. Said Railroad Company covenants and agrees to pay said Contract Company for the work and materials above named as follows:

R.R. Co. agrees to p
to Contract Co.

In the First Mortgage Bonds of the Pueblo and Arkansas Valley Railroad Company, Two Million, seventy-two thousand dollars (\$2,072,000).

\$2,072,000 in First
Mortgage bonds.

In the Capital Stock of the Pueblo and Arkansas Valley Railroad Company, Three million dollars (\$3,000,000). Such Municipal and County bonds as have been granted to the Pueblo and Salt Lake Railway Company and the Colorado and New Mexico Railroad Company or may be hereafter granted to the said Railroad Company party of the first part in exchange for stock of said respective companies shall also be credited and paid to said Contract Company subject to the conditions upon which such bonds have been or shall be granted, and which conditions shall be assumed and fulfilled by said Contract Company.

\$3,000,000 in capital
stock.

And Municipal
and County bonds.

ART. 5. WHEREAS certain parties desirous of assisting said Railroad Company to build said road have already subscribed certain sums of money in aid thereof and under the agreement that they shall receive stock and bonds of said Railroad Company therefor,

Contract Co. to
assume contracts of
subscription with
all benefits and
obligations.

AND WHEREAS said parties have paid a portion of their subscriptions and the amount so received has been in part expended by said Railroad Company for work necessary in the construction of said road and for which work said Contract Company is to pay said Railroad Company the cost price thereof as hereinbefore provided. It is therefore mutually agreed that said Contract Company, shall assume said contracts of subscription with all benefits and obligations from them, from the time the same were made and shall fulfil and carry out the same in every par-

Agreement between
P. & A. V. R.R. and
Contract Co.

particular and so relieve said Railroad Company from any and all liability thereunder, and said Railroad Company agrees to credit the said Contract Company with all moneys collected hitherto on said contracts of subscription and to aid so far as lies in its power, said Contract Company in the collection of such balance thereof as still remains to be paid.

Times of payment
for construction.

ART. 6. Payment for the construction of said road shall be made from time to time but not more frequently than once in thirty days as the work progresses and in the judgment of the engineer employed by said Railroad Company the same is earned and may be safely paid taking into consideration the comparative cost and difficulties of construction so completed to the whole included in this contract to be done by said Contract Company, and also taking into consideration the market value of the bonds, stocks and property to be paid in ascertaining the amounts and classes of payments to and any balance thereof shall be paid upon the satisfactory completion of this contract by said Contract Company.

Road to be turned over
and accepted in
sections of 25 miles.

ART. 7. It is mutually agreed that the said Contract Company shall turn over to said Railroad Company any section of not less than twenty-five (25) miles of said road when fully completed upon the written request of the said Railroad Company so to do and said R.R. Co. shall then execute and deliver to said Contract Co. an instrument in writing evidencing its acceptance of such section constructed and completed according to contract, or if any further work thereon shall remain uncompleted specifying therein particularly what remains so uncompleted, which the said Contract Company shall forthwith complete according to the terms of this contract.

Either party may
dissolve this
agreement on
30 days' notice.

ART. 8. Either party may dissolve this agreement at any time on giving thirty days' notice in writing of its intention so to do and all accounts shall then be settled as speedily and equitably as may be.

Provision for
arbitration in case
of disagreement.

ART. 9. It is further agreed that in case any disagreement or difficulty shall arise between the parties hereto as to the proper compliance herewith by either as to any other

matter or thing resulting therefrom the same shall be submitted to arbitration to three arbiters, one of whom shall be chosen by said Railroad Company one by said Contract Company and the third by these two so chosen and the matter in difference shall be submitted to the three so selected with such books, papers, proofs and other things as they require and the award of such arbiters or a majority of them shall be final as to the subject of disagreement and shall be binding upon and be observed and performed by each of the parties hereto.

Agreement between
P. & A. V. (II.) and
Com'lth Contr. Co.

IN WITNESS WHEREOF the parties hereto have caused their respective corporate seals to be hereunto affixed and these presents to be signed by their respective Presidents and attested by their respective Secretaries hereunto duly authorized the day and year first above written.

Attesting clause.

THE PUEBLO AND ARKANSAS VALLEY R.R. Co.

By JOS. NICKERSON,

[SEAL]

Pres.

Attest:

THOS. NICKERSON,

Secty.

THE COMMONWEALTH CONTRACT CO.

By GEO. B. WILBUR,

[SEAL]

Presdt.

Attest:

EDWARD H. MASON,

Secretary.

STATE OF MASSACHUSETTS, }
COUNTY OF SUFFOLK, } ss.

Acknowledgment
of R.R. Co.

Be it remembered that on this eighteenth day of November A.D. 1875 before me Geo. L. Goodwin a Notary Public within and for the County and State aforesaid personally came the Pueblo & Arkansas Valley Railroad Company by Joseph Nickerson its President who is personally known to me to be the same person who executed the foregoing instrument as President of said Railroad Company,

Agreement between
P. & A. V. (II) and
Com'lth Contr. Co.

and he duly acknowledged the execution of the same to be the act of the said Pueblo & Arkansas Valley Railroad Company.

IN TESTIMONY WHEREOF I have hereunto set my hand and Notarial Seal the day and year last above written.

GEO. L. GOODWIN,
Notary Public.

[SEAL]

Acknowledgment of
Contract Co.

STATE OF MASSACHUSETTS, } ss.
COUNTY OF SUFFOLK,

Be it remembered that on this eighteenth day of November A.D. 1875, before me Geo. L. Goodwin, a Notary Public within and for the County and State aforesaid personally came the Commonwealth Contract Company by George B. Wilbur its President, who is personally known to me to be the same person who executed the foregoing instrument as President of said Contract Company, and he duly acknowledged the execution of the same to be the act of the said Commonwealth Contract Company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial Seal the day and year last above written.

GEO. L. GOODWIN,
Notary Public.

[SEAL]

ACCEPTANCE OF PERFORMANCE OF FOREGOING AGREEMENT.

BOSTON, Nov. 8th, 1876.

Acceptance of road
as completed, and
cancellation of
contract Nov. 8, 1876.

It is agreed that the road named in the foregoing Contract is accepted by said party of the first part as completed; that said contract is cancelled and discharged. The party of the second part hereby releases the party of the first part from any and all claims thereunder for any part of the contract price not paid or otherwise, and the party of the first part releases and agrees to protect said

party of the second part from all liability which may hereafter arise under the same.

WITNESS the corporate seals of the parties of the first and second parts respectively and the signatures of their respective Treasurers hereunto duly authorized.

THE PUEBLO & ARKANSAS VALLEY R.R. Co.

THOS. NICKERSON,

[SEAL]

Treas.

THE COMMONWEALTH CONTRACT Co.

By EDWARD H. MASON,

[SEAL]

Treas.

VOTES IN REGARD TO PERFORMANCE OF FOREGOING AGREEMENT.

EXTRACT FROM THE RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY HELD AT BOSTON ON APRIL 26TH, 1876.

P. & A. V. (11.)
Executive Committee
April 26, 1876.

VOTED, That the Treasurer is hereby authorized to deliver to the Commonwealth Contract Company the following securities on account of the contract with said Company, viz: \$865,000 in the first mortgage bonds of this Company Nos. 915 to 1779 inclusive, also seventeen thousand two hundred and forty-three shares in the capital stock of this Company.

THE FOREGOING ACTION of the Executive Committee was ratified by the Trustees of the Pueblo and Arkansas Valley R.R. Co. at a meeting held at Pueblo, Col. on May 17, 1876.

Ratification by
Trustees
May 17, 1876.

P. & A. V. (11.)
Executive Committee
June 21, 1876.

EXTRACT FROM THE RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, HELD AT BOSTON ON JUNE 21, 1876.

On motion of B. P. Cheney, it was

VOTED, That the Treasurer is hereby authorized to deliver to the Commonwealth Contract Company twenty-seven hundred and fifty-seven shares in the capital stock of this Company, on account of the contract with said Contract Company, making together with that previously issued twenty thousand shares.

P. & A. V. (11.)
Executive Committee
Oct. 31, 1876.

EXTRACT FROM THE RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, HELD AT BOSTON ON OCTOBER 31, 1876.

A communication from the Treasurer of the Commonwealth Contract Company was presented urging a settlement of their contract of November 18, 1875, and claiming that the delay in finishing the road which they agreed should be completed not later than May 1, 1876, has been occasioned by failure on the part of this Company to determine the location and character of the passenger and freight depot, engine house &c. at Pueblo.

They claim that there is due them a cash balance of \$36,090.76, \$1,000,000 in the capital stock, and \$293,000 in the 1st Mortgage Bonds.

An estimate was presented by the Treasurer of this Company of the work to be done and payments to be made by the Commonwealth Contract Company to complete their contract with this Company amounting to the sum of \$36,139.92.

After some discussion and on motion of Mr. F. H. Peabody it was

VOTED that the Treasurer is hereby authorized to settle with the Commonwealth Contract Company on the following terms, viz:

Vote authorizing
settlement with
Contract Co.

1st. To accept the road as completed provided the Commonwealth Contract Company will relinquish their claim of \$36,090.76 in offset for what remains unfinished.

2d. To deliver to the Treasurer the balance of the securities as claimed by that Company.

3d. If this settlement is accepted by the Commonwealth Contract Company to cancel and discharge the contract and release and protect them from all liabilities which may hereafter arise under the same.

THE FOREGOING ACTION of the Executive Committee at their meetings of June 21, 1876 and October 31, 1876, was ratified by the Trustees of the Pueblo and Arkansas Valley R.R. Co. at a meeting held at Pueblo, Col. on May 16, 1877.

Ratification by
Trustees May 16, 1877.

•

BALANCE SHEETS SHOWING PERFORMANCE OF FOREGOING AGREEMENT.

P. & A. V. R. R. CO. IN ACCOUNT WITH COMMONWEALTH CONTRACT CO.	
Oct. 30, 1876.	
Voucher E. Wilder Treas. & al.	\$503,724.41
" Expenses	4,706.39
" P. & S. L. Ry. Co.	7,045.00
" C. & N. M. R. R. Co.	362.93
Construction expenses additional	1,569.40
	<u>\$517,408.13</u>
Iron rail account	\$599,690.48
less allowance Springfield Iron Co. . .	2,760.66
	<u>596,929.82</u>
Paid subscribers' interest as per their con-	
tracts of subscription	\$86,701.38
less interest received	4,488.74
	<u>82,212.64</u>
Cash on hand allowed by Commonwealth	
Contract Co. to close contract on the	
acceptance of the road and agreement to	
complete the same by P. & A. V. R. R. Co.	
	<u>36,090.76</u>
	<u>\$1,232,641.35</u>
Cash received on full paid subscriptions	
to Oct. 30, 1876	\$1,032,800.00
Cash received on subscription for interest	
" " for Bent County bonds sold	95,200.00
" " for partial subscriptions . . .	104,161.35
	<u>480.00</u>
	<u>\$1,128,000.00</u>
	<u>\$1,232,641.35</u>

BOSTON, Oct. 30, 1876 settled as above

E. H. MASON, Treas. Com'lth Con't Co.

Dr.

Boston, Oct. 30, 1876 settled as above
E. H. MASON, *Treas. Com'lth Con't Co.*

Dr.

P. & A. V. R.R. CO. IN ACCOUNT WITH COMMONWEALTH CONTRACT CO.

Cr.

To Capital Stock P. & A. V. R.R. transferred according to contract on contracts of subscription	
To subscribers	\$1,128,000.00
Bent County	150,000.00
Pueblo County	350,000.00
C. & N. M. R.R. Co.	165,000.00
P. & S. L. Ry Co.	4,600.00
	<u>\$1,797,600.00</u>
To First Mortgage Bonds P. & A. V. R.R. delivered according to contract on contracts of subscription	1,779,000.00
To First Mortgage Bonds and Capital Stock transferred to Commonwealth Contract Co. as per contract	
Stock of P. & A. V. R.R. Co. . . .	\$1,202,400.00
Bonds " " . . .	293,000.00
	<u>1,495,400.00</u>
	<u>\$5,072,000.00</u>

Boston, Oct. 30th 1876 settled as above
EDWARD H. MASON, *Treas. of the*
Commonwealth Cont. Co.

Capital Stock P. & A. V. R.R. Co. as per contract	\$3,000,000.00
First Mortgage Bonds P. & A. V. R.R. Co. as per contract	<u>2,072,000.00</u>
	<u>\$5,072,000.00</u>

DECLARATION OF TRUST

BY THE STOCKHOLDERS OF THE

COMMONWEALTH CONTRACT CO.

Names of
stockholders of
Com'ith Contr. Co.
and number of shares
of P. & A. V. stock
held by each.

Declaration that said
shares were received
as a dividend of profit
on construction of
road of P. & A. V. and
are held in trust to be
applied in reduction
of bonded debt of
P. & A. V. by
transferring said
shares to Atchison Co.
in exchange at par for
P. & A. V. mortgage
bonds to be cancelled.

We, George B. Wilbur, William T. Glidden, Alden Speare, Lucius G. Pratt, and Edward H. Mason, holding in our respective names certain shares of the capital stock of the Pueblo and Arkansas Valley Railroad Company, as follows: said Wilbur twenty one hundred and sixty-five (2165) shares; said Glidden twenty-one hundred and sixty five (2165) shares; said Speare twenty one hundred and sixty six (2166) shares; said Pratt twenty one hundred and sixty six (2166) shares; and said Mason twenty one hundred and sixty six (2166) shares; in all ten thousand eight hundred and twenty eight shares; do hereby declare that said shares being a part of twelve thousand and twenty four shares, which were received by us as stock-holders of the Commonwealth Contract Co. as a dividend of profit made in the construction of the Pueblo and Arkansas Valley Railroad between the Kansas line and Pueblo are held as our own property, but in trust only for the uses and purposes mutually agreed upon by us and the Atchison, Topeka and Santa Fe Railroad Company when stock holders in said Commonwealth Contract Company—namely to apply the same when needed in reduction of the bonded debt of said Pueblo and Arkansas Valley Railroad Company in the manner following; by transferring the same and any dividends thereon to the Atchison Topeka and Santa Fe Railroad Company in exchange at par for the mortgage bonds of the said Pueblo and Arkansas Valley Railroad Company of an equal amount which may be purchased from time to time by said Atchison Topeka and Santa Fe Railroad Company, such bonds upon said exchange to be cancelled.

And we respectively agree with said Atchison Topeka and Santa Fe Railroad Company to transfer to it upon request, the whole of the stock held by us respectively as aforesaid, or so much thereof as may be so requested from time to time and the amount of dividends received by us respectively on said stock held by us from time to time when so requested upon being satisfied that an equal amount (in dollars at par value) of the First Mortgage Bonds aforesaid are held and owned by said Atchison Topeka and Santa Fe Railroad Company, and will be cancelled and destroyed on receipt of said stock or money.

Agreement to transfer said stock to Atchison Co. on cancellation of a like amount of said bonds.

We declare and acknowledge that we hold said stock respectively in trust for the uses and purposes aforesaid and agree with said Atchison Topeka and Santa Fe Railroad Company, that we will not dispose of said stock or any part thereof except for said purposes and that on the death of any one of us the stock then held by him shall be transferred to the survivors on the same trusts but we reserve the right to transfer any of said stock held by us to other persons to hold on the same trusts with the approval of the person who may be President or of a majority of the persons who may be Directors for the time being of the Pueblo and Arkansas Valley Railroad Company.

Agreement not to transfer said shares except in pursuance of the said trusts.

And to the faithful performance of these agreements and trusts we respectively, each for himself and not for the others, bind ourselves, our heirs and representatives.

Each agreeing for himself and heirs and representatives.

IN WITNESS WHEREOF we hereunto set our hands and seals this fifteenth day of April A.D. 1879.

Attesting clause.

ALDEN SPEARE [SEAL]

W. T. GLIDDEN [SEAL]

EDWARD H. MASON [SEAL]

LUCIUS G. PRATT [SEAL]

GEO. B. WILBUR [SEAL]

By V. E. CARPENTER,

Atty.

ENDORSEMENTS

UPON THE

FOREGOING DECLARATION OF TRUST

SHOWING TRANSFERS TO THE ATCHISON COMPANY OF THE STOCK
OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COM-
PANY NAMED IN THE SAID DECLARATION OF TRUST.

BOSTON, Aug. 22, 1879-

One thousand shares of the within stock has been trans-
ferred under this agreement to the Atchison, Topeka and
Santa Fe R.R. Co. as follows, viz:

By	WM. T. GLIDDEN,	200 shares
	EDW. H. MASON,	200 shares
	GEO. B. WILBUR,	200 shares
	L. G. PRATT,	200 shares
	ALDEN SPEARE,	200 shares

BOSTON, Oct. 6th, 1879-

Two hundred and forty shares of the within stock has
been transferred under this agreement to the Atchison,
Topeka and Santa Fe R.R. Co. as follows, viz:

By	WM. T. GLIDDEN,	120 shares
	EDW. H. MASON,	120 shares

BOSTON, February 5th, 1880-

Seven hundred and ten shares of the within stock has
been transferred under this agreement to the Atchison,
Topeka and Santa Fe Railroad Co. as follows, viz:

By	WM. T. GLIDDEN,	350 shares
	EDW. H. MASON,	360 shares

DISTRIBUTION

BY THE

ATCHISON COMPANY

TO SUBSCRIBERS UNDER ITS CIRCULARS OF FURTHER SHARES OF
CAPITAL STOCK AND FIRST MORTGAGE BONDS OF

THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY (II. and III.).

PORTION OF CIRCULAR NO. 41

OF

ATCHISON COMPANY

RELATING TO THE CONSTRUCTION OF THE SOUTHERN DIVISION OF

THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY (II.).

THOS. NICKERSON, PRES.

GEO. L. GOODWIN, ASST. TREAS.

OFFICE OF THE

Atchison, Topeka, & Santa Fé Railroad Co.

EQUITABLE BUILDING, ROOM 24.

No. 150 DEVONSHIRE STREET.

P.O. BOX 2746.

March 23, 1878.

BOSTON, March 23, 1878.

CIRCULAR NO. 41.

Proposed road to
south line of
Colorado.

THE Pueblo and Arkansas Valley Railroad Company
have determined to extend their Railroad under their
present charter from La Junta, *via* Trinidad, to the
south line of the State of Colorado, in the direction of

Santa Fe, a distance of 95 1-2 miles, at an estimated cost of \$1,012,000.

Circular 41 of
Atchison Co.

This extension will be known as the Southern Division.

To be called
Southern Division.

At Trinidad, they will reach an inexhaustible supply of coal of the best quality, which can be delivered on the cars at not exceeding \$1 per ton.

Coal at Trinidad.

It is of the greatest importance to the Company to secure an ample supply of cheap fuel for its own use, and for the settlers along its lines. It is also expected that this extension will largely increase the business over the whole line.

It is proposed to raise the money by issue of first-mortgage 7 % gold bonds, with coupons payable semi-annually, limited to \$12,000 per mile of completed road. The Company offer to subscribers, for \$900 in cash, nine shares of the capital stock of the Pueblo and Arkansas Valley Railroad Company, of the par value of \$100 each, and one \$1,000 first-mortgage bond of the Company; each stockholder owning twenty-six shares being entitled to subscribe for nine shares of said stock.

Proposed issue
of bonds.

Terms of subscription.

This extension, when built, will be placed under lease to the Atchison, Topeka, and Santa Fe Railroad Company, on the same terms and conditions as the present line from the Kansas State line to Pueblo. In accordance with our invariable practice, this subscription is now offered to the present stockholders of the Pueblo and Arkansas Valley Railroad Company until April 10, proximo. Any part of the subscription not taken on or before that date will be allotted on the same terms by the directors of the Pueblo and Arkansas Valley Railroad Company to such parties as may desire to subscribe for the same.

Extension when built
to be leased to
Atchison Co.

Subscription to
remain open until
April 10, 1878.

The subscription is payable as the same may be assessed by the directors; but not more than twenty per cent. shall be assessed in any one month; and the first assessment shall not be made earlier than May 1, 1878.

Assessments.

An interest account will be made with the subscribers, at the rate of seven per cent. per annum, in currency.

Interest.

Circular 41 of
Atchison Co.

All subscriptions must be made for \$900, or multiples thereof.

: : : : : : : : : :
: : : : : : : : : :

JOSEPH NICKERSON,
President,
Pueblo and Arkansas Valley Railroad Company.

THOMAS NICKERSON,
President,
Atchison, Topeka, and Santa Fe Railroad Company.

Approved.

I. T. BURR,	}	<i>Finance Committee</i> <i>Atchison, Topeka, and</i> <i>Santa Fe Railroad Co.</i>
B. P. CHENEY,		
JOSEPH NICKERSON,		
THOMAS NICKERSON,		

Explanation as to
omitted portion of
foregoing Circular.

THE OMITTED PORTION of the foregoing Circular relates to the New Mexico and Southern Pacific Railroad Company and the subscriptions for its securities, and will be found printed with the documents relating to that Company.

Amount of bonds
issued under
foregoing Circular.

UNDER THE FOREGOING CIRCULAR there were issued \$1,125,000 First Mortgage bonds of The Pueblo and Arkansas Valley Railroad Company. For Issues of Capital Stock under the said Circular, see *ante*, p. 122.

PORTION OF CIRCULAR NO. 42

OF

ATCHISON COMPANY

RELATING TO THE PROPOSED CONSTRUCTION OF THE PUEBLO AND
ARKANSAS VALLEY R.R. Co. (II.) FROM PUEBLO
TO LEADVILLE AND THE SAN JUAN
MINING DISTRICT.

THOS. NICKERSON, PRES.

GEO. L. GOODWIN, Ass't TREAS.

OFFICE OF THE

Atchison, Topeka & Santa Fe Railroad Co.

EQUITABLE BUILDING, ROOM 24.

No. 150 DEVONSHIRE STREET.

P.O. BOX 2740.

BOSTON, June 22, 1878. June 22, 1878.

CIRCULAR No. 42.

The Pueblo and Arkansas Valley Railroad Company have decided to extend their railroad under their present charter from Pueblo to Leadville and the San Juan mining district, and to build this year from Canon City to South Arkansas, a distance of fifty-seven miles, the estimated cost of which is \$750,000.

Proposed roads to
Leadville, San Juan,
and South Arkansas.

It is proposed to raise the money by the issue of first mortgage 7 % gold bonds, with coupons payable semi-annually, limited to \$14,000 per mile of completed road, including rolling stock. This subscription is limited to \$770,000, and the Company offer to subscribers, for \$1,100 in cash, eleven shares of the capital stock of the Pueblo and Arkansas Valley Railroad Company, of the par value of \$100 each, and \$1,000 in the first mortgage bonds of the Company, each stockholder owning twenty-seven shares being entitled to subscribe for eleven shares of said stock; and all subscriptions must be made for \$1,100, or multiples thereof.

Proposed issue
of bonds.

Terms of subscription.

Circular 42
of Atchison Co.

This extension, when built, will be placed under lease to the Atchison, Topeka and Santa Fe Railroad Company, on the same terms and conditions as the present line from Kansas to Pueblo. This subscription is now offered to stockholders of record June 25, 1878, of the Pueblo and Arkansas Valley Railroad Company, until 12 o'clock, July 10, proximo. Any part of the subscription not taken on or before that date will be allotted on the same terms by the directors of the Pueblo and Arkansas Valley Railroad Company, to such parties as may desire to subscribe for the same on or before July 15.

The subscription is payable as the same may be assessed by the directors, but not more than twenty per cent. shall be assessed in any one month.

The bonds will be executed and delivered to the subscribers as the road is completed in sections of not less than twenty miles.

An interest account will be made with the subscribers, at the rate of seven per cent. per annum in currency.

: : : : : : : : :

THOMAS NICKERSON,

President,

Atchison, Topeka and Santa Fe Railroad Company.

JOSEPH NICKERSON,

President,

Pueblo and Arkansas Valley Railroad Company -

THOMAS NICKERSON,

President,

New Mexico and Southern Pacific Railroad Company.

THE OMITTED PORTION of the foregoing Circular relates to the New Mexico and Southern Pacific Railroad Company and the subscriptions for its securities, and will be found printed with the documents relating to that Company.

CIRCULAR No. 44

OF

ATCHISON COMPANY.

THOS. NICKERSON, PRES.

GEO. L. GOODWIN, ASS'T TREAS.

OFFICE OF THE

Atchison, Topeka & Santa Fé Railroad Co.

EQUITABLE BUILDING, ROOM 24,

No. 150 DEVONSHIRE STREET.

P. O. BOX 2746.

BOSTON, Sept. 17, 1878.

CIRCULAR No. 44.

The Pueblo and Arkansas Valley Railroad Company have decided to complete forthwith their railroad from Pueblo to South Arkansas and Leadville, of standard gauge throughout the whole extent.

Circular 44
of Atchison Co.
Sept. 17, 1878.

The whole distance is one hundred fifty-six and one-quarter miles, the estimated cost of which is \$2,206,200. The amount already provided under Circular No. 42 for building fifty-seven miles is \$770,000, leaving \$1,436,200 to be raised.

It is proposed to raise the money by the issue of first mortgage seven per cent. gold bonds, with coupons payable semi-annually, limited to \$14,000 per mile of completed road, including rolling stock. This subscription is limited to \$1,400,000, and the Company offer to subscribers, for \$1,100 in cash, eleven shares of the capital stock of the Pueblo and Arkansas Valley Railroad Company, of the par value of \$100 each, and \$1,000 in the first mortgage bonds of the Company, each stockholder owning thirty-eight shares under the old or new subscription being entitled to subscribe for eleven shares of said new stock; and all subscriptions must be made for \$1,100, or multiples thereof.

Circular 44
of Atchison Co.

This extension, when built, will be placed under lease to the Atchison, Topeka and Santa Fe Railroad Company, on the same terms and conditions as the present line from Kansas to Pueblo. This subscription is now offered to stockholders of September 17, 1878, of the Pueblo and Arkansas Valley Railroad Company, until 12 o'clock, September 28th, current. Any part of the subscription not taken on or before that date will be allotted on the same terms, by the directors of the Pueblo and Arkansas Valley Railroad Company, to such parties as may desire to subscribe for the same on or before September 28th, current.

The subscription is payable as the same may be assessed by the directors, but not more than twenty per cent. shall be assessed in any one month.

The bonds will be executed and delivered to the subscribers, as the road is completed in sections of not less than fifty miles.

An interest account will be made with the subscribers, at the rate of seven per cent. per annum in currency.

The Pueblo and Arkansas Valley Railroad Company have also decided to extend their road from Pueblo to Denver.

It is considered that this movement will prove of great value to our whole system of roads, and, to insure its early completion, a subscription has been already made for the sum of \$1,200,000. Surveys will be ordered, and a careful estimate of the cost made, and as soon as the estimates are received, a subscription will be opened at this office, on such terms as may then appear equitable, and offered to the stockholders of the Pueblo and Arkansas Valley Railroad Company, the subscribers to the \$1,200,000 having agreed to surrender ratably such portion of their subscriptions as may be taken by the stockholders.

THOMAS NICKERSON,
President

Atchison, Topeka & Santa Fe Railroad Company.

JOSEPH NICKERSON,
President

Pueblo & Arkansas Valley Railroad Company.

[FORMS OF SUBSCRIPTION ATTACHED TO FOREGOING CIRCULAR.]

Forms of
attached t
of Atchiso.

PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

SUBSCRIPTION.

For subscribers with rights.

BOSTON, Sept. 17th, 1878.

In consideration of one dollar paid by the Pueblo and
Arkansas Valley Railroad Company, the receipt of which
is hereby acknowledged, hereby subscribe for
shares of the stock of the par
value of \$100 each, and agree to pay for the same on the
terms and conditions specified in the Circular No. 44 of
the Atchison, Topeka and Santa Fe Railroad Company.

Name.

Address,

PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

SUBSCRIPTION.

For subscribers without rights.

BOSTON, Sept. 17th, 1878.

In consideration of one dollar paid by the Pueblo and
Arkansas Valley Railroad Company, the receipt whereof is
hereby acknowledged, hereby subscribe for
shares of the stock, of the par
value of \$100 each, and agree to pay for the same on the
terms and conditions specified in the Circular No. 44 of
Atchison, Topeka and Santa Fe Railroad Company;
being mutually agreed that if the total amount of this
subscription shall exceed the amount which remains un-
paid by the stockholders of the Pueblo and Arkansas Val-
ley Railroad Company, Sept. 28, current, each subscription
be ratably rebated.

Name,

Address,

Issues of stock and
bonds under foregoing
Circular.

THERE WERE ISSUED under the foregoing Circulars 15,037 shares of stock and \$984,000 of bonds.

The said stock was delivered in accordance with an opinion given by the Hon. Henry W. Paine, and the said bonds were apportioned to the subscribers under said circulars in the manner explained in Circular A of the Pueblo and Arkansas Valley Railroad Company (III.) and a Memorandum of Settlement thereunder hereinafter printed. The bonds were limited to \$14,000 a mile. Forty miles of railroad were constructed under Circulars 42 and 44, viz: from Pueblo to the coal fields near Canon City, which allowed the issuing of \$560,000 of bonds on this new construction. The remaining \$424,000 of said bonds were issued upon the previously existing mileage of the Pueblo and Arkansas Valley Railroad Company, the bonds theretofore issued not having reached the limit of \$14,000 a mile, and there being a sufficient margin to allow this additional issue.

Extracts from Annual
Report of Atchison
Co. for 1879 as to
abandonment of
Leadville line.

THE FOLLOWING EXTRACTS from the Annual Report of the Atchison Company for the year ending December 31, 1879, state the cause of the abandonment of the Leadville line, which is explained below at greater length under the head "Denver and Rio Grande Litigation."

CONSTRUCTION (COLORADO).

Work was continued on the Leadville extension of the Pueblo and Arkansas Valley Railroad, from the date of the last report up to July 14, when its further progress was stopped by an injunction from the Circuit Court of the United States. At the time the injunction was issued, the grade to Leadville was nearly completed, with twenty-two miles of track laid. Had work on this extension not been stopped by order of the Court, the road would have been completed and open to Leadville, Sept. 30, 1879.

* * * * *

DENVER AND RIO GRANDE RAILWAY.

This road was turned over to us December 14, 1878, as stated in the last report. We operated it under the lease till June 11, 1879, when we were dispossessed of it by the Denver and Rio Grande Company. Its possession was restored July 16 by order of the United States Court, which Court afterwards (August 14) placed the road in the charge of a receiver.

DENVER AND RIO GRANDE LITIGATION.

The following brief statement of the complicated litigation in regard to the possession of the Grand Canon of the Arkansas River is made by Charles E. Gast, esquire, Solicitor for Colorado of the Atchison, Topeka and Santa Fe Railroad Company, and the Pueblo and Arkansas Valley Railroad Company.

MR. GAST'S STATEMENT.

The Canon City and San Juan Railway Company was incorporated for the purpose of building a line through the Grand Canon of the Arkansas River. It made a survey, and promptly sent a force of men into the canon for the purpose of constructing a line. The Denver and Rio Grande Company met this move by sending a force of men there, and the two forces soon came into collision. The Canon City and San Juan Company then filed a bill in the District Court of Fremont County, Colorado, asking for an injunction against the Denver and Rio Grande people, to restrain interference with their possession, and the injunction was obtained from the state court, and the work of the Denver and Rio Grande Company was stopped. The case was then removed to the United States Circuit Court, where, upon motion to dissolve the injunction, the injunction was sustained. The Denver and Rio Grande Company then filed a cross bill, setting up a prior right to the occupation of the canon, and praying for an injunction against the Canon City and San Juan Company. Ebenezer Alling and others, the incorporators and directors of the Canon City and San Juan Company, were made parties defendant to this cross bill. Full testimony in the case was taken, and it went to final hearing before Judges Hallett and Dillon. The Canon City and San Juan Company was successful, and a decree was entered adjudging that it had a prior right to locate the line through the canon, and per-

Mr. Gast's Statement
of D. & R. G.
litigation.

Mr. Gast's Statement
of D. & R. G.
litigation.

manently enjoining the Denver and Rio Grande Company from interference.

This case was appealed by the Denver and Rio Grande Company to the Supreme Court of the United States. In the meantime, the work of construction by the Canon City and San Juan Company was proceeded with.

While the case was pending on appeal in the Supreme Court of the United States, certain agreements were entered into between the two companies, by which the Atchison Company acquired a majority of the capital stock of the Denver and Rio Grande Company, likewise a lease of its road, and in due course the possession of the Denver and Rio Grande was turned over to the Atchison Company under the lease. Strange to say, however, in all the agreements then entered into, not a word was said respecting the litigation over the Grand Canon, and in a short time afterwards the appeal in the Supreme Court of the United States was decided, and the decree of the lower court reversed, the opinion of the Supreme Court being to the effect that the prior right was with the Denver and Rio Grande Company.

The case was sent back from the Supreme Court to the Circuit Court, and a supplemental bill was then filed by the Pueblo and Arkansas Valley Company, into which the Canon City and San Juan Company had been merged, setting up that it had acquired a controlling interest in the stock of the Rio Grande Company and a lease of its road, and that other agreements had been entered into between the two companies, which were intended to compromise the pending litigation over the canon. This created litigation subsequent to the mandate of the Supreme Court of the United States, the question involved being whether the original controversy respecting right of way had been compromised and settled. This litigation went to a final hearing before Judge Hallett, and the issues raised by the supplemental bill were decreed against us. An accounting was ordered of the moneys expended by us in the construction of the line through the canon, preparatory to placing the Denver and Rio Grande Company in possession upon payment of the sums expended by us.

During all this time, we were operating the Denver and Rio Grande Road, but the directory of the Denver and Rio

Grande Company had not been changed. About this time, the Denver and Rio Grande Company filed a bill in the state court against us, alleging that the lease was *ultra vires*, and that its provisions had been violated by us, and praying for an injunction to restrain us from operating the road. The injunction was sued out from Judge Bowen without notice, the effect of which was to dispossess us. Armed with this writ, the Denver and Rio Grande Company took forcible possession of the road. We obtained a removal of the case to the United States Circuit Court, and the United States Court promptly restored to us the possession of the road. We continued to operate it for a month or six weeks, but found it very difficult. Public interests were suffering and the business community greatly disturbed by the existing state of things, and the United States Court afterwards took possession of the road and appointed a Receiver to hold it until the determination of the litigation respecting the validity of the lease.

Mr. Gast's Statement
of D. & R. G.
litigation.

The Receiver operated the road for a short time, and then a second compromise was entered into between the two companies, by which we sold to the Denver and Rio Grande Company the line through the canon, cancelled the lease, and in fact quieted all litigation of every character.

MR. WILLIAM G. SMYSER'S ACCOUNT

OF THE

CONTEST FOR THE CANON

MR. SMYSER HAVING BEEN AT THAT TIME WITH
A. A. ROBINSON, ESQ., CHIEF ENGINEER.

In 1878 the Denver and Rio Grande Railroad, extending from Denver via Colorado Springs and Pueblo to El Moro near Trinidad, from Cuchara to Alamosa on the Rio Grande and from Pueblo to Canon City, was leased to the Atchison, Topeka & Santa Fe Railroad Company, possession being taken December 14th, 1878.

Mr. Smyser's account
of the contest for
the canon.

Opposition to the lease was almost immediately manifested

Mr. Smyser's account
of the contest for
the canon.

by the officials of the D. & R. G., and efforts began to be made to regain possession. These efforts consisted of legal proceedings and resort to force. Resistance was made by the Santa Fe, and during the spring of 1879 armed men were employed by each side, the chief scene of the armed contest being at Pueblo, though forces were centred at El Moro, Canon City, Cuchara and Alamosa.

Early in June the D. & R. G. having taken forcible possession at Alamosa and other points south of Pueblo, concentrated a strong force at South Pueblo, erecting forts commanding the roundhouse and other buildings located at that point. June 10th the Santa Fe defenders were besieged in the roundhouse, and during the afternoon of the 11th the Santa Fe men surrendered. The D. & R. G. thus taking forcible possession on that date, having a show of legal authority by reason of an order or injunction issued by Judge Bowen of the State Court, who appointed Hanson A. Risly as receiver.

Appeal was at once made to Judge Hallet of the United States Court, who set aside Judge Bowen's injunction and receiver, and ordered the road restored to the Santa Fe, which was done July 16th. By later order of the court, filed July 24th 1879, the road was at twelve o'clock midnight August 14th, 1879, placed in the hands of Lewis C. Ellsworth as receiver. The Santa Fe did not again resume possession.

During 1878 surveys were made by the Santa Fe under the charter of the P. & A. V. Co. for extending the Canon City branch up the valley of the Arkansas River to Leadville. Construction through the Grand Canon was an extremely difficult piece of engineering, but the work was successfully performed and with such energy prosecuted that when, on July 14th, the United States Circuit Court issued its injunction stopping the work, about twenty-two miles of track had been laid and the grading as far as Leadville nearly completed.

The D. & R. G. claimed the sole right to occupy the Grand Canon and other passes on the Leadville extension. This claim was disputed by the Santa Fe. To decide upon the feasibility of another line through the Grand Canon and along the Arkansas River, and the cost of the road and road-

bed already constructed, Judge Hallet appointed a commission consisting of William Sooy Smith, Geo. E. Gray and Andrews N. Rogers. Mr. Smyser's account
of the contest for
the canon.

These gentlemen, after a careful personal inspection of the route, made report to the court September 16th 1879. Subsequently the P. & A. V. Co. was reimbursed by the D. & R. G. for its expenditures on account of said construction and for material on hand.

In the contests for repossession the D. & R. G. forces were captained by Ex-Gov. Hunt on the Alamosa line and at El Moro. At Pueblo and Canon City Chief Engineer McMurtrie and H. De Remer were in charge, General Palmer serving as Director in Chief.

April 21st 1879 a dispatch was sent to Mr. Robinson from Denver, saying that the United States Supreme Court had rendered a decision in the Grand Canon suit favorable to the A. T. & S. F. by denying the exclusive right-of-way to the D. & R. G. Co.

THE FOLLOWING DOCUMENTS relate to the Denver and Rio Grande litigation :

**THE SO-CALLED POTTS-SCHLESINGER
AGREEMENT.**

Potts-Schlesinger
Agreement.

Memorandum of Agreement to be made between, the Atchison, Topeka & Santa Fe Railroad Company represented by its president Thomas Nickerson, The Pueblo and Arkansas Valley Railroad Company represented by its president Joseph Nickerson, and the Denver and Rio Grande Railroad Company represented by Joseph D. Potts and Sebastian B. Schlesinger.

First. The A. T. & S. F. R.R. Co. is to take a lease of the D. & R. G. R.R. Co. to terminate November second, A.D. nineteen hundred and eight and is to operate the road of the D. & R. G. R.R. Co. paying a rental thirty-five per cent. of the gross earnings of the leased road, and such further percentage thereof as may be agreed on by the Presidents of the two roads or in default of their agreement as shall be fixed by a referee to be agreed on by them, whose award shall be final. And in estimating the gross earnings on passengers and freight carried over the D. & R. G. R.R. Co. and also over the whole or a part of either of the other roads named each mile of transportation over the D. & R. G. R.R. Co. shall be reckoned equal to one mile and a quarter on either of the other roads named, except that transportation over the Leadville or Canon City branch shall be reckoned as equivalent mile for mile.

Of the above named rental any surplus after paying interest on the bonds and debt of the D. & R. G. R.R. Co. shall be devoted to the purchase and extinguishment of the bonds and debt of the D. & R. G. R.R. Co. at the best market price to be ascertained by advertising for bids, but at not exceeding ten per cent. above par.

In case of competing trade an equitable division of the traffic shall be made.

The P. & A. V. R.R. Co. agrees to purchase within one year from the date hereof all the stock of the D. & R. G. R.R. Co. which shall be offered it from time to time, as offered after the second day of November next paying one share of its own stock for every five shares of the stock of the D. & R. G. R.R. Co. and the D. & R. G. R.R. Co. agrees that it will furnish or cause to be conveyed at the

above rate, at least ten shares more than one-half of its entire Capital Stock within 60 days from the date hereof. **Potts-Schlesinger Agreement.**

The P. & A. V. R.R. Co. guarantees that its total debt does not exceed eleven thousand seven hundred and eighty dollars per mile of constructed road and that its stock does not now exceed fifteen thousand four hundred and thirty-eight dollars per mile of constructed road and the D. & R. G. R.R. Co. guarantees that its total debt does not exceed twenty-two thousand six hundred and sixty-four dollars per mile of constructed road, and that its stock does not exceed twenty-five thousand two hundred and twenty dollars per mile of constructed road.

The directors of the A. T. & S. F. R.R. Co. shall nominate two-thirds of the board of directors of the D. & R. G. R.R. Co.

The lease above mentioned to take effect on the second day of November next, or as soon thereafter as may be practicable and the D. & R. G. R.R. Co. agrees to make a lease on the foregoing terms, the lease is to be in the usual form, details to be arranged hereafter.

Pending the completion of this contract it is mutually agreed that friendly arrangements shall be made as far as practicable.

Dated the 4th day of October A.D. 1878.

Oct. 4, 1878.

ATCHISON TOPEKA & SANTA FE R.R. Co.

By THOS. NICKERSON, *Prest.*

PUEBLO & ARKANSAS VALLEY R.R. Co.

By JOS. NICKERSON, *Prest.*

DENVER & RIO GRANDE R.R.

By SEBASTIAN B. SCHLESINGER,
JOS. D. POTTS.

Subject to the approval of the President of the D. & R. G. R.R.

COPY OF TELEGRAM.

PENNA. DEPOT, WEST PHILADELPHIA, PA., Oct. 5.

Thos. Nickerson,

Prest. A. T. & S. F. R.R. Co., Boston.

I ratify agreement.

W. J. PALMER.

AGREEMENT

BETWEEN

WILLIAM J. PALMER AND ALDEN SPEARE

FOR THE PURCHASE OF A MAJORITY OF THE
CAPITAL STOCK OF THE

**DENVER AND RIO GRANDE RAILWAY
COMPANY.**

Oct. 19, 1878.

This agreement made and entered into this nineteenth day of October 1878

WITNESSETH that William J. Palmer of Colorado party of the first part and Alden Speare of Boston Massachusetts party of the second part in consideration of the mutual covenants and agreements hereinafter contained have agreed and hereby do agree as follows:—

On or before the first day of December 1878 there shall be deposited with T. Jefferson Coolidge Esquire also of Boston as trustee hereunder by the party of the first part or on his behalf Forty two thousand five hundred and ten shares of one hundred dollars each in the non-assessable capital stock of the Denver and Rio Grande Railway Company being a majority of said stock and within ten days after the party of the first part shall have deposited in the Post office at the city of New York properly enveloped and addressed to the party of the second part at Boston Mass. with the postage prepaid thereon a notice in writing there shall likewise be deposited with said trustee by the party of the second part or on his behalf Eight thousand five hundred and two shares of one hundred dollars each in the non-assessable capital stock of the Pueblo and Arkansas Valley Railroad Company being at the rate of one share in the said stock of the last named Company for each five shares of the said stock of the Denver and Rio Grande Railway Company so deposited by the said [party] of the first part. If either party fail this agreement to be void and

the party not in default shall be entitled upon demand to the redelivery to him of the shares he shall have deposited as aforesaid in conformity hereto. But if neither party shall fail then the said trustees shall have and hold said shares so deposited with him by the said parties respectively in Trust and dispose thereof as hereinafter provided.

Agreement between
William J. Palmer
and Alden Spears
for purchase of
D. & R. G. Stock.

The said trustee shall hand over and deliver to said party of the first part for each five shares in the Capital stock of the Denver and Rio Grande Railway Company so deposited one share in the said stock of the Pueblo and Arkansas Valley Railroad Company to have and to hold the same, as his the party of the first part properly free and discharged of and from all claims and demands of the said party of the second part or any other person or persons, party or parties whomsoever thereon or thereto or on or to any part thereof provided however that until the said party of the first part shall furnish proof satisfactory to said trustee that all debts including any liabilities of the said Denver and Rio Grande Railway Company for damages to persons or property carried or injured or for salaries or non-fulfilment of contracts up to the period of the delivery by the Denver and Rio Grande Railway Company of certain property described in a certain lease of the Denver and Rio Grande Railway Company bearing even date herewith, to the Atchison Topeka and Santa Fe Railroad Company or incurred under the administration of the said Denver and Rio Grande Railway Company prior to such delivery and which hereafter become debts in excess of the sum of Twenty two thousand six hundred and sixty-four dollars per mile of its constructed road shall have been either paid or payment thereof secured in a manner to be approved by said trustee, the said trustee shall retain from the said shares of the Pueblo and Arkansas Valley Railroad Company's stock which would otherwise be deliverable to the party of the first part hereunder not exceeding five thousand shares but as and when the said debt shall be paid or payment thereof secured in a manner to be approved by said trustee, the trustee shall hand over and deliver to the party of the first part, as many of said five thousand shares of the

Agreement between
William J. Palmer
and Aiden Speare
for purchase of
D. & R. G. stock.

Pueblo and Arkansas Valley Railroad Company's stock so retained as may be reasonably proportionate to the amount of such debt so paid or secured and upon being satisfied that all said debts of said Denver and Rio Grande Railway Company shall have been paid or payment thereof secured in a manner satisfactory to him, said trustee shall hand over and deliver to the party of the first part the remainder of the said Five thousand shares of the Pueblo and Arkansas Valley Railroad Company's stock retained as aforesaid.

I. Whenever within one year from the date which the Denver and Rio Grande Railway Company shall deliver possession under said lease to the Atchison Topeka and Santa Fe Railroad Company, the said party of the first part shall offer to deposit with said trustee a further number or additional shares of the stock of the Denver and Rio Grande Railway Company then the party of the second part shall and will, from time to time and as required deposit with said trustee such additional or further amount of said shares in the Capital stock of the said Pueblo and Arkansas Valley Railroad Company as he may deem proper not however less than sufficient to deliver to the party of the first part one share in the said Pueblo and Arkansas Valley Railroad Company's stock for every five shares in the said Denver and Rio Grande Railway Company's stock so offered by the party of the first part which stock so to be deposited by the party of the second part shall by said trustee be delivered to the party of the first part whenever he shall deposit with said trustee any such further or additional shares in the Capital Stock of said Denver and Rio Grande Railway Company at the rate of one share of the stock of the said Pueblo and Arkansas Valley Railroad Company for each five shares of the stock of said Denver and Rio Grande Railway Company until all the stock of said last named Company now amounting to Eight million five hundred thousand dollars par value or Eighty five thousand shares (inclusive of the shares to be deposited under paragraph I.) shall have been deposited by the party of the first part provided however that if the party of the first part shall at or before the expiration of said year have deposited

r offered to deposit with said trustee sixty three thousand, even hundred and fifty shares of said stock of the Denver and Rio Grande Railway Company the period of one year hereinbefore limited shall at the option of the party of the first part by notice in writing to be delivered to said trustee be extended for a period not exceeding one additional year.

Agreement between
William J. Palmer
and Alden Speare
for purchase of
D. & R. G. stock.

The said trustee shall have and hold the legal title to all the Denver and Rio Grande Railway Company stock deposited with him by the party of the first part and shall vote upon the said stock as directed by the party of the second part.

Whereas the Denver and Rio Grande Railway Company has made and executed a certain instrument in writing bearing even date herewith whereby it undertakes to grant lease and demise its constructed road to the Atchison, Topeka and Santa Fe Railroad Company and whereas such lease and this agreement are parts of the plan whereby the constructed railroad of the Denver and Rio Grande Railway Company and its stock should be controlled in the interest of the Atchison Topeka and Santa Fe Railroad Company and corporations whose roads are leased or otherwise controlled by it and the present stockholders of the said Denver and Rio Grande Railway Company or their assigns receive full paid non-assessable stock of the Pueblo and Arkansas Valley Railroad Company in lieu of and on surrendering the shares of the Denver and Rio Grande Railroad Company's stock held by him or them respectively at the rate aforesaid which rate is based on the assumption that the indebtedness of said companies respectively exclusive of stock does not exceed a certain sum per mile of constructed road and the said Denver and Rio Grande Railroad Company has guaranteed to pay or secure the payments of its debts in excess of (\$22664.) Twenty two thousand, six hundred and sixty-four dollars per mile exclusive of the stock in furtherance of the plan. Now for the purpose of enabling said William J. Palmer to collect from each holder of the Denver and Rio Grande Railway Company's stock a proportionate share of said excess the party of the second

Agreement between
William J. Palmer
and Alden Speare
for purchase of
D. & R. G. stock.

part further covenants and agrees that the entire interchange of stocks shall be made by the parties hereto and through the intervention of said trustee and as herein provided and not otherwise howsoever,—provided that nothing herein contained shall be deemed to authorize the party of the first part by pursuing the remedies herein provided or other remedies to compel such interchange after the period of one year, or if such period be extended as aforesaid after the expiration of such extension. It is further agreed that whatever assets the said Denver and Rio Grande Railway Company may have, outside said demised railroad and premises at the time of surrendering possession thereof to the Atchison, Topeka and Santa Fe Railroad Company or accruing to it afterwards on account of the administration of its business before such date shall be well and truly applied towards the payment of such debts of said company (in excess of the said sum of twenty two thousand six hundred and sixty four dollars per mile) as the party of the first part may direct and in such manner as he may direct, and that the trustee hereunder or the person to whom the trustee may hereafter transfer and assign the stock which shall be deposited with him by said party of the first part shall at all times and whenever requested aid and assist with his or their vote on such stock or otherwise howsoever in carrying out this provision.

It is further agreed that inasmuch as part of the debt of the Denver and Rio Grande Railway Company in excess of \$22664.00, per mile has been incurred for work done, and material expended for extending its lines, that such work done, and material expended forms part of the assets aforesaid, and that whenever any such work or materials shall be used or taken possession of or otherwise accrue to the benefit of the Atchison Topeka and Santa Fe Railroad Company or the Pueblo and Arkansas Valley Railroad Company or any corporation whose road is or shall be leased or controlled by it, the Atchison, Topeka and Santa Fe Railroad Company, the value of such work and material so used and taken possession of or otherwise accruing to the benefit of the Atchison Topeka and Santa Fe Railroad

or other corporation as aforesaid shall be appraised by two persons, one to be appointed by the President of the Atchison, Topeka and Santa Fe Railroad Company and the other by the party of the first part or in case such persons shall disagree, by an umpire to be appointed by the said president and the party of the first part and the decision of such umpire shall be final and the party of the second part promises and agrees on demand to pay to the party of the first part the amount or amounts so agreed upon or fixed by said umpire and that failing to pay the same on such demand such amount or amounts shall be held to reduce the debt of the Denver and Rio Grande Railway Company in excess of \$22664.00 per mile pro tanto and the trustee hereunder shall deliver to the party of the first part a proportionate number of the five thousand shares in the Pueblo and Arkansas Valley Railroad Company's stock which he shall have retained as aforesaid, but the party of the first part covenants that on receiving such amount or amounts from the party of the second part he shall and will, well and truly apply the same to the reduction of the said debt in excess of \$22664. per mile. It is further agreed inasmuch as the debts of the Denver and Rio Grande Railway Company in excess of \$22664. per mile include any liabilities of the Denver and Rio Grande Railway Company for damages to person, or property, carried, or salaries or non-fulfilment of contracts up to the period of the delivery of the leased property to the Atchison, Topeka and Santa Fe Railroad Company or incurred under the administration of the Company prior to such delivery and which hereafter shall become debts that the party of the first part shall have the right full power and authority to defend in the name of the Denver and Rio Grande Railroad Company but at his own proper cost and expense any suit action or other legal proceeding which shall or may be brought or be pending to enforce such liability and that if the power and authority hereby granted shall be insufficient, the Board of Directors or other duly authorized officer of said company for the time being, shall on the written request of the party of the first part grant and confer such power and

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authority on the party of the first part without any delay or condition imposed it is understood that this agreement is to bind the party of the second part as the legal holder of the Pueblo and Arkansas Valley Railroad Company's stock hereinbefore referred to as a representative of all persons or parties having or lawfully claiming to have a beneficial interest in such stock that any liability however arising from the breach of any covenant or the non-performance of any act on behalf of the party of the second part may be enforced against him individually and in case said party of the second part shall die, or become incapable by disease to perform his part of this agreement its provisions shall be carried out by Isaac T. Burr, that in case the party of the second part shall die or become incapable to act the rights and privileges to him herein granted and obligations to be performed by him shall be exercised by William A. Bell of Colorado. In case of any failure on the part of the party of the second part to deliver to said trustee the Pueblo and Arkansas Valley Railroad Company's stock or any part thereof (over and above Eight thousand five hundred shares) when and as provided in this agreement the said trustee shall if he then holds any Denver and Rio Grande Railway Company's stock, and otherwise the said party of the second part shall transfer and deliver to the party of the first part ten shares of Denver and Rio Grande Railway Company's stock as penalty for each share of Pueblo and Arkansas Valley Stock he may fail to so deliver and there shall be the same penalty for each share of Pueblo and Arkansas Valley Railroad Company's stock that may be exchanged for stock of the Denver and Rio Grande Railway Company's by the Pueblo and Arkansas Valley Railroad Company or by the Atchison Topeka and Santa Fe Railroad Company or by any party or company directly or indirectly acting for them or either of them during the periods herein provided except the same shall be made by the parties hereto through the trustee. The party of the second part covenants not to part with any of the Denver and Rio Grande Railway Company stock's delivered to him under this agreement until Dec. 2nd, 1879,—

or if the time be extended as provided herein until Dec. 2nd 1880.

Provided that nothing herein contained shall be held to prevent the delivery to the party of the first part of any shares of said stock provided to be delivered to him as penalty.

And the said party of the second part covenants and guarantees that the debt of the Pueblo and Arkansas Valley Railroad Company does not exceed exclusive of stock, Eleven thousand seven hundred and eighty dollars per mile and in case the total debt of that Company shall exceed that sum, the party of the second part promises and agrees that he shall and will deposit with said trustee so many shares of non-assessable stock of the last named Company in addition to the shares hereinbefore agreed to be deposited by him as shall enable the trustee to deliver to the party of the first part on account of stock then already deposited by him or which he may hereafter deposit an additional amount of said Pueblo and Arkansas Valley Railroad Company's stock for each five shares the party of the first part shall then have deposited or thereafter deposit in the same proportion as the excess may bear to the amount of debt aforesaid and if default be made in such deposit or delivery the party of the first part shall have the right to demand from said trustee and of the party of the second part the return of a proportionate number of shares of the Denver and Rio Grande Railway Company's stock which upon such demand shall be delivered to him by the trustee or the party of the second part as the case may be.

It is further agreed that in case any disputes shall arise between the parties hereto the said trustees shall act as umpire, but if a dispute or difference arises between the parties or either of them and the said trustee the party who shall claim his rights to be affected by such dispute and the trustee shall each appoint a referee and the referees so appointed shall select another person who shall act as umpire and the decision of any umpire appointed hereunder shall be final and the parties and said trustee shall be bound to conform their action respectively to such decision.

Agreement between
William J. Palmer
and Alden Speare
for purchase of
D. & R. G. stock.

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It is further understood that "debts of the Denver and Rio Grande Railway Company in excess of Twenty two thousand six hundred and sixty four dollars per mile" are exclusive of its stock.

WM. J. PALMER.
ALDEN SPEARE.

Signed, sealed and delivered
in presence of

THEODORE L. H. MEYER.

DECLARATION OF TRUST BY ALDEN SPEARE

AS TO CERTAIN SHARES OF THE CAPITAL STOCK

THE PUEBLO AND ARKANSAS VALLEY R.R. CO.

HELD BY HIM UNDER THE FOREGOING AGREEMENT.

Declaration of Trust
by Alden Speare.

I, Alden Speare do hereby certify acknowledge and declare that eight thousand five hundred and two shares of the Capital Stock of the Pueblo and Arkansas Valley Railroad Company's standing in my name on the books of said company are held by me in trust for purposes of my agreement with William J. Palmer dated October 19th 1878 and for the use and benefit of the Atchison Topeka and Santa Fe Railroad Company, and I hereby agree at any time and times on the written request of the Executive Committee of said Atchison Topeka and Santa Fe Railroad Company to transfer to such person or persons as they may name so many of said shares as they shall so request.

And I further agree to pay to the Treasurer or Assistant Treasurer of said Atchison Topeka and Santa Fe Railroad Company as soon as received, all sums of money received by me as dividends on said stock so held by me, and also on the stock of the Denver and Rio Grande Railway Company that I may receive in exchange for the stock of the Pueblo and Arkansas Valley Railroad Company as provided in said agreement aforesaid belonging to said Atchison

Topeka and Santa Fe Railroad Company, and to vote or give proxies to vote upon such shares of said The Pueblo and Arkansas Valley Railroad Company and Denver and Rio Grande Railway Company standing in my name as aforesaid, as the Executive Committee of said Atchison Topeka and Santa Fe Railroad Company shall in writing request.

Declaration of Trust
by Alden Speare.

And to the faithful performance of these agreements I bind myself my heirs and representatives.

Witness my hand and seal this 26th day of November
A.D. 1878.

ALDEN SPEARE.

[SEAL]

Witness

S. W. REYNOLDS.

LEASE

BY THE

DENVER AND RIO GRANDE RY. CO.

TO THE

ATCHISON COMPANY.

it. 19, 1878.

THIS INDENTURE, made this 19th day of October, A.D. 1878, between the Denver & Rio Grande Railway Company, a corporation duly organized and existing, owning and operating a railroad line in Colorado, party of the first part, and the Atchison, Topeka and Santa Fe Railroad Company, a corporation duly organized and existing under the laws of Kansas, party of the second part,

WITNESSETH:

That, in consideration of the sum of one dollar to it duly paid by the party of the second part at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and of the rents, covenants and agreements hereinafter reserved and contained, on the part and behalf of the party of the second part to be paid, kept and performed, the party of the first part to these presents has granted, leased and demised, and by these presents does grant, lease and demise unto the party of the second part, its successors and assigns, all and singular the railroad which the party of the first part has heretofore constructed and operated in Colorado, commencing in the city of Denver and extending thence southwardly *via* Colorado Springs to Pueblo, on the Arkansas River; thence, still in a southerly direction, *via* Cucharas to El Moro, in Colorado, and to the El Moro collieries; and also from Cucharas westward *via* La Veta and Garland to Alamosa, on the Rio Grande del Norte; and also from Pueblo westward up the valley of the Arkansas River to Cañon City and the Cañon coal mines,— in all about three hundred and thirty-seven miles of railroad, more or less, exclusive of sidings; together with the lands and

premises occupied by or connected therewith; together, also, with the rolling stock, equipment and appurtenances to the railroad hereinbefore described belonging or in anywise appertaining and owned or acquired by the party of the first part in connection therewith; also, all rights, privileges and franchises of the said party of the first part necessary to the operation and management of said hereinbefore described railroad or the business thereof; including in the said premises hereby demised all the railroads, ways and rights of way; all the depot grounds, tracks, bridges, viaducts, culverts, fences and other structures, depots, station houses, engine houses, car and freight houses, and other buildings, machine shops and other shops, machinery and tools, and all other lands and property whatsoever belonging to the party of the first part, and which have heretofore been used or acquired for use in connection with the said hereby demised railroad or the business thereof;

Lease of D. & R. G.
to Atchison Co.

PROVIDED HOWEVER, that nothing herein contained shall operate to grant or demise, or be construed to include the franchise to be a corporation heretofore conferred upon the said party of the first part or the corporators thereof, or any other right, privilege or franchise which is or may be necessary or requisite to preserve the corporate existence and organization of the party of the first part; and all such franchises to be a corporation, and all rights and privileges, other than those hereinbefore granted and demised, are hereby expressly reserved and exempted from these presents.

TO HAVE AND TO HOLD the said hereinbefore described railroad and premises with the appurtenances unto the party of the second part, its successors and assigns, from the first day of December, 1878, for and during, and until the full end of, the term of thirty years thence next ensuing, and fully to be complete and ended, the said party of the second part, its successors and assigns, yielding and paying therefor unto the party of the first part, its successors and assigns, during the said term hereby granted the rent hereinafter specified and in the manner hereinafter provided, and keeping and performing all and singular the covenants and agreements hereinafter set forth, to be by the said party of the second part kept and performed, subject, nevertheless, to debts contracted by the party of the first part, whether the same shall

Lease of D. & R. G.
to Atchison Co.

be secured by mortgage lien or otherwise howsoever or unsecured, not exceeding in the aggregate at the date of delivery of the demised premises the sum of twenty-two thousand six hundred and sixty-four dollars per mile of constructed road, including any liabilities of the party of the first part for damages to persons or property carried or injured, or for salaries, or non-fulfilment of contracts up to the period of the delivery of the leased property to the party of the second part, or incurred under the administration of the company prior to such delivery, and which hereafter shall become debts, but exclusive of stock, and any excess of such debts and liabilities, exclusive of stock, of the party of the first part over and above said sum, said party of the first part agrees and guarantees to pay or provide for. The party of the first part also covenants that the stock issued by it does not exceed eight million five hundred thousand dollars. And in consideration of the premises, the parties hereto have further covenanted, promised and agreed, and by these presents do covenant, promise and agree, each for itself and its successors and assigns, to and with the other party hereto, its successors and assigns, as follows, to wit:—

ARTICLE I.—The party of the second part shall and will, at its own proper cost and expense and without deduction from the rent hereinafter provided to be paid to the party of the first part, manage, operate, use, and run the said demised railroad and property at all times during said term in the same manner as the party of the first part, as the owner thereof, or otherwise, is now or shall or may at any time hereafter during said term be required by law to do; and using, operating, and running the same, the said party of the second part shall and will, at its own proper cost and expense and without deduction from said rent, at all times during said term, maintain, preserve, and keep the said demised railroad and premises, fixtures and appurtenances, and every part and parcel thereof in thorough repair, working order, and condition, and fully supplied with motive power, rolling stock, and equipment, and make all needful and proper additions thereto and improvements thereon, so that the traffic and business of the said demised railroad shall be preserved, encouraged, and developed, and that the same shall be at all times done with safety and expedition and the public be

accommodated in respect thereto with all practicable conveniences and facilities, and that all future growth or increase of such traffic and business as the same may arise or be reasonably anticipated shall be fully provided for and secured. And the party of the second part promises, covenants and agrees to meet the obligations of the party of the first part to the public by making from time to time and whenever needed or required such repairs, renewals and replacements, additions and improvements, in manner and for the purposes aforesaid, and to make all reasonable efforts and use all lawful means to maintain and preserve, develop and increase, all the business of said demised railroad.

Lease of D. & R. G.
to Atchison Co.

ARTICLE 2.—The said party of the second part shall and will at all times during said term, at its own proper cost and expense and without deduction from the rent aforesaid, employ all such officers, superintendents, employees and workmen, as shall be necessary to fully carry out the purposes of Article 1.

ARTICLE 3.—The party of the second part, for itself its successors and assigns, hereby covenants, promises and agrees to and with the party of the first part, its successors and assigns, in consideration of the execution to it of this lease that the said party of the second part shall and will, well and truly apply and pay, or cause to be paid in manner hereinafter provided as and for rent of the herein demised property,

For the first year forty-three per centum,

For the second year forty-two per centum,

For the third year forty-one per centum,

For the fourth year forty per centum,

For the fifth year thirty-nine per centum,

For the sixth year thirty-eight per centum,

For the seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth years, thirty-seven per centum, and for the sixteen remaining years of the term thirty-six per centum of the total gross earnings of said demised railroad and the business thereof to be made up in the usual manner and as hereinafter provided; and it is further agreed that for the purpose of ascertaining and determining the amount of gross earnings upon and from which the rent aforesaid shall be computed and paid, the following principles shall govern: whenever any passenger or freight shall be carried over the

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said demised railroad, or any part thereof, and also over the railroads of the party of the second part or of the Pueblo & Arkansas Valley Railroad Company, built or to be built, or any part of either, said party of the first part shall be, for each mile of such transportation over the demised railroad, entitled to share in the distribution of fare and freight moneys as if the same were carried one mile and a quarter, except that transportation of business passing over that part of the hereby demised premises extending from Pueblo westward up the valley of the Arkansas River to Cañon City, or any part thereof, and likewise over the line from Cañon City to Leadville, shall only be reckoned mile for mile, it being the intention of this provision that the gross earnings from all business interchanged between said demised railroad, or any part thereof, and the railroads owned or controlled by the party of the second part or by the Pueblo & Arkansas Valley Railroad Company, built, or to be built, or any part of any of them, shall be divided on the basis of crediting each mile of transportation over the hereby demised railroad, as one and one quarter miles; except where such business shall be interchanged between the demised line connecting Pueblo with Cañon City, and the road which may connect Cañon City with Leadville, in which case the gross earnings thereof shall be divided *pro rata* according to the number of miles hauled over the respective roads.

The said party of the second part hereby covenants and agrees:—

a. That neither the Atchison, Topeka & Santa Fé Railroad Company, nor the Pueblo & Arkansas Valley Railroad Company, nor any other company which either of them may now or hereafter control, shall directly or indirectly build or operate or encourage any line or track not already constructed, that may be parallel to or competing with any constructed Denver and Rio Grande line, or impair the earnings or security thereof, nor lay a third rail or alter the gauge of any part thereof (except between Pueblo and the coal mines east of Cañon City) without at the same time widening the gauge or laying a third rail over all Denver and Rio Grande Railway lines.

But the foregoing section shall not be construed to mean that any line between Cañon City and Leadville, or any ex-

tension beyond Leadville is a competing line with any such constructed Denver and Rio Grande line.

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And any line that may be built from any terminus of the Denver and Rio Grande lines, or in extension thereof, shall be of three feet gauge.

b. That the line of transportation *via* Pueblo to and from Denver and the Missouri River and all other points on any of the railroads owned, operated or controlled by the party of the second part shall be kept open on equal terms with any other line or lines between Denver and such river or other points respectively for the carriage of freight and passengers, so as to enable the parties hereto to compete with any other line out of or into Denver, and that it will not make or enter into any agreement or understanding with any competing railroad for any division of business, territory or earnings which shall in any way tend to injure or diminish the business or earnings of the railroad hereby demised without in some manner securing to the said railroad a proportionate benefit and advantage.

c. That where any traffic can be carried at the election of the lessees either over the railroad hereby demised or over some other of the railroads owned, controlled, or managed by the said party of the second part, then and in all such cases it shall be transported by the shortest line; and generally that in all cases of traffic wherein the said party of the second part but for this agreement and the covenants herein might be able or endeavor by fixing rates or in any other manner, to divert business from the said hereby demised railroad or any part thereof, the said party of the second part shall not so divert or endeavor to divert any such business to the injury of the said demised road, but an equitable division of such business shall be made between them; and the local and other rates on the said demised road shall not be fixed or adjusted so as to impair or diminish the earnings thereof.

d. That the rates of freight on Cañon coal to all points on the lines owned or controlled by the party of the second part, east of the city of Pueblo, shall not be higher than on coal from Trinidad, or El Moro and vicinity, in Southern Colorado, to the same point.

e. That the rates of transportation between the South Ar-

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kansas and Pueblo, or any point east or north of Pueblo, shall not be less than the rates on business between Alamosa and Pueblo, or said other points east or north of Pueblo.

The rent hereinbefore reserved shall be paid monthly, and it being provided herein that the term hereby granted shall begin on the first day of December, in the year eighteen hundred and seventy-eight, it is hereby further agreed and declared that the rental provided to be paid as aforesaid shall commence to run on that day, and the instalment for the first calendar month shall be payable on or before the last day of the calendar month next succeeding such first month, and thereafter such payments shall be made for each month on or before the last day of each succeeding month.

ARTICLE 4. — The said party of the second part shall and will at all times during said term keep insured to the same extent as its other leased similar property, the rolling stock, tools and machinery, buildings, bridges, or other structures erected upon the premises hereby demised, and all other property usually insured by railroad companies, and shall and will from time to time, and as often as the same shall become due, also pay and discharge, without deduction from the rent aforesaid, any and all premiums for such insurance, and also any and all taxes, assessments, duties, imposts, and charges whatsoever which shall or may be levied, assessed, or imposed during the said term by any governmental or lawful authority whatsoever upon the said demised premises and railroad, or any part thereof, or upon any business or earnings or income of the same, or upon the party of the first part with respect to the said railroad and premises, or any part thereof, or any business or earnings or income thereof, or upon the party of the first part for or in respect to any money which shall be paid or which shall become payable to the party of the first part as or on account of the rent hereinbefore reserved, or any money which shall be paid or become payable to the party of the first part in pursuance of these presents or with respect to any interest or rights under these presents or upon such money, interests, or rights, or which shall or may be hereafter assessed or imposed upon the party of the first part upon the amount of its capital stock by or under any governmental authority

which is or may be exercised over any territorial jurisdiction within which any part of the said railroad or premises is or may be situated; it being the true intent and meaning of these presents, that all governmental charges upon the aforesaid property or the income to be therefrom derived, which may be imposed by or under any governmental authority capable of enforcing such charges against or on the said property or the corporation owning or leasing the same, shall be paid and satisfied by the party of the second part, however the forms thereof may change during the term of these presents, but that the said party of the second part shall not become liable to pay any tax imposed upon stockholders personally in respect to stock held by them or dividends or income derived by them therefrom, which shall be collected from such stockholders personally, without the intervention or service of the party of the first part or any of its officers or agents. And the party of the second part shall and will also at all times during the said term allow and pay to the party of the first part, and without deduction from the rent aforesaid, and as part of the necessary expense of carrying on the business of the said demised railroad, the cost of meeting the coupons and dividends of the party of the first part wherever due, and of the transfer of its bonds and stocks and of issuing certificates therefor wherever such transfer and issue is made, and of preserving and maintaining its corporate organization. And it is further agreed that the party of the second part will pay the current expenses of the party of the first part in preserving its corporate existence, maintaining its general offices, and paying the salaries of its officers during the month of December, 1878, and until the adjustment and settlement of accounts and transactions up to and growing out of the transfer provided by this lease, and not exceeding in all ten thousand dollars.

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ARTICLE 5. — The said party of the second part shall and will at all times during said term and the continuance of this lease keep an office in the city of Pueblo, Colorado, which shall be open at all reasonable hours and times for the transaction of the business of the said demised railroad, and at such office, under the direction of an auditor to be appointed by the party of the first part, its successors or assigns, whose salary shall be paid by the party of the second part, its

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successors or assigns, as part of the operating expenses of said demised railroad, keep full, true and just accounts of any and all moneys received, and business done upon said demised railroad, and the character thereof, and of all moneys paid, laid out and expended, and liabilities incurred in connection with the same, and also full statistical accounts similar to those now kept by the party of the first part. The accounts so to be kept as above provided shall clearly distinguish between all business done over, and all moneys received and disbursed or expended, or liabilities incurred in operating that part of the demised railroad extending from Pueblo westward to Cañon City, and over the remainder of said demised railroad, and such account, and any and all accounts which shall or may be kept by the party of the second part, its successors or assigns, in relation to the said demised railroad, or the business thereof, or any part thereof, and vouchers relating thereto, shall at all reasonable times be open to the inspection and examination of the party of the first part, its successors or assigns, its or their duly authorized agent; and the said party of the second part shall, at its own proper cost, furnish monthly statements of the earnings and expenses of the said demised railroad and premises to the party of the first part, and annually, to wit, on or before the first day of April in each year, during the continuance of this lease, furnish to the said party of the first part, its successors or assigns, a detailed statement, duly authenticated, of the earnings, income and receipts arising from said demised railroad and premises, during the year ending the thirty-first day of December last preceding the said first day of April; and also a detailed statement, similarly authenticated, of all expenditures made by the party of the second part, upon the said demised railroad and premises, for repairs, renewals, replacements, additions, improvements thereto and thereon, and equipment thereof, specifying the purposes of any and all such expenditures, which statements so to be furnished, shall separately state and contain the earnings and income, operating expenses and other expenditures made for or on account of the said portion between Pueblo and Cañon City, and the remainder of the said demised railroad. And the party of the second part shall also, at its own cost, furnish for the use of the party of the first

part, from time to time, whenever necessary, any and all reports and statements which the said party of the first part is now or may be hereafter required to make or file under or by virtue of any law enacted by competent authority.

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ARTICLE 6. — The party of the second part shall and will, at all times during the term aforesaid, bear, pay and discharge, at its own proper cost and expense and without deduction from the rent hereinbefore reserved, any and all expenses, costs, damages, liabilities, claims and demands whatsoever, which shall or may arise out of its possession, management, or operation of the said demised railroad and premises, or any part thereof, or out of the business thereof during the said term, and shall and will, at all times during the said term, hold, save and keep harmless, and indemnify the said party of the first part, of, from, and against any and all expenses of operating during said term the railroad and premises hereby demised, and all damages, liabilities, actions, causes of action, suits, claims and demands for injuries to persons or property, or for causing the death of any person or thing, through accident, neglect or default, during said term, or for breach of contract or wrong done or permitted by the said party of the second part, in the refusal to transport, or negligence in transporting any person, property or thing, or the loss, conversion, or non-delivery of any property which the said party of the second part shall have agreed or be bound to transport over the said demised railroad, or any part thereof, or which the said party of the first part, as the owner of the said railroad hereby demised, or any part thereof, is or shall be under any legal obligation, by contract, public duty or otherwise, to transport thereon, and of, from, and against any and all costs, damages, liabilities, actions, causes of action, suits, claims and demands whatsoever, which shall or may arise out of or in respect to the management, operation or business of the said demised railroad and premises, or any part thereof, by the party of the second part, during the term aforesaid. And the said party of the second part shall and will defend all suits which may be brought against the party of the first part during the said term, in respect of any matter or thing arising out of the management or operation of the said demised railroad, or any part thereof by the party of the second part, and indemnify and save

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harmless the party of the first part, of, from, and against any and all matters and things whatsoever, which might or could be a charge upon, or operate to reduce the rent hereinbefore reserved, arising out of the management of the demised premises by the party of the second part.

ARTICLE 7. — Possession of the said demised railroad and premises shall be given by the party of the first part to the party of the second part on the second day of December, in the year eighteen hundred and seventy-eight, and upon the delivery of such possession, the party of the first part shall transfer and deliver to the party of the second part, for use upon said demised railroad and premises, all machinery, tools, implements and furniture, fuel, material and all railroad supplies belonging to the party of the first part, which shall have been procured for the use of said railroad or any part thereof, and shall then remain on hand; *provided, however*, that said fuel, material and other railroad supplies shall at the time of such transfer and delivery be paid for by the party of the second part, in cash, at a price to be agreed upon by two persons, one to be appointed by the president of each party hereto, and in case of their disagreement, by an umpire previously agreed upon by said presidents, whose decision shall be final. Such appraisalment shall be made as soon as possible after the execution of these presents, and be evidenced by the certificate of said appraisers, or the umpire, to be made and executed in duplicate, one to be delivered to each of the parties hereto. The appraisers or said umpire shall arrive as nearly as possible at the value of the property as it may be on the day of giving possession of the hereby demised property.

The sum agreed upon by the appraisers, or fixed by the umpire in accordance with the foregoing provisions, shall be deposited by the party of the second part with Sebastian B. Schlesinger as trustee, who shall hold the money deposited with him in trust, and shall at the time of the delivery of possession of the demised railroad hereunder to the party of the second part, and upon the surrender by the party of the first part of the certificate aforesaid, pay over to the party of the first part, or any person by it lawfully authorized to receive the same, the sum or price so agreed upon or fixed and certified; and the party of the first part covenants and

agrees that such money shall be applied to the payment of any of its debts, exclusive of stock, in excess of twenty-two thousand six hundred and sixty-four dollars per mile, as aforesaid.

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And it is further mutually covenanted and agreed by and between the parties hereto that the party of the first part shall at its own cost receive and collect all earnings, incomes, issues and profits of the said demised railroad and premises or any part thereof, and claims and demands arising from the business and operation thereof prior to the said first day of December, 1878; *provided, however*, that if the party of the first part shall so request, such collection and any payments which the party of the first part shall request to be made out of the same, shall be made for the party of the first part by the agents of the party of the second part, so far as may be practicable in the ordinary course of their employment, without charge for the services of such agents.

ARTICLE 8. — And whereas the said party of the first part has heretofore made and entered into certain contracts and agreements in relation to the business of the said demised railroad, including contracts for supplies and material, and for the use and purchase of rolling stock, and it is the intent and meaning of these presents that all contracts relating thereto not hereinafter excepted shall be assumed and carried out by the party of the second part, and that the benefit thereof should inure to and the liability therefor rest on the party of the second part, in place and stead of the party of the first part, now, therefore, the said party of the first part sells, assigns, transfers and sets over unto the party of the second part all the right, title and interest of the party of the first part in and under all such contracts and agreements which shall have been made in relation to the business to be done on the said demised railroad or any part thereof, or in respect to the furnishing of any supplies and material not hereinbefore specifically transferred, and the use and purchase of rolling stock; and the party of the second part hereby assumes the performance of the same on the part and behalf of the said party of the first part, according to the true intent and meaning thereof; but nothing herein contained shall apply after December 31, 1878, to any traffic contract made by said party of the first part with any connecting

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railroad companies, unless with a road included in this lease, nor to any other contracts than such as have been made reasonably and in good faith in the course of the business of said party of the first part; and the said party of the second part hereby promises, covenants and agrees to and with the said party of the first part that the said party of the second part shall and will at all times hereafter save and keep harmless and indemnify the party of the first part, its successors or assigns, of, from and against all costs, damages, expenses, liabilities, claims, and demands whatever, which shall or may arise under said contracts and agreements, or either thereof, by reason of any act or omission of the party of the second part; but the party of the second part is in no event to be liable for supplies or material except such as shall be actually delivered to it under such contracts, nor for rent of rolling stock except such as accrues for use after taking possession, and in no case shall the party of the second part be obliged to assume any contract for the construction of any extension.

ARTICLE 9. — The said party of the first part hereby promises and agrees that as and when the several sums of money hereinbefore provided to be paid for rent under Article 3 shall be paid to and accepted by the party of the first part, the same shall immediately be deposited with the United States Trust or other Trust Company in New York City in trust for the payment of interest on the debts of the party of the first part going to make up the sum of twenty-two thousand six hundred and sixty-four dollars per mile, exclusive of stock, subject to which this lease is made; and if any surplus thereafter remains, such surplus shall be applied first to the payment of such debts and liabilities, other than its present mortgage bonds as are mentioned in the habendum clause of this agreement, going to make up the sum of twenty-two thousand six hundred and sixty-four dollars per mile, exclusive of stock, subject to which this lease is made, but not including the excess of such debt and liabilities which the party of the first part has hereinbefore agreed to pay or provide for, until such debts and liabilities shall be fully paid and satisfied, and thereafter to the redemption and cancellation of its first mortgage bonds at the lowest market price, to be ascertained by advertising for bids, but at a price not exceeding ten per cent. above par;

and in case said bonds cannot be purchased at said last-named price, after reasonable advertising, such surplus shall be paid over to the party of the first part to be applied to payment of dividends to its stockholders. The party of the first part also agrees, on or before the first day of February next, to deposit in such Trust Company an amount which with the interest allowed by said Trust Company to May 1, 1879, shall be equal to one twelfth of the annual interest on its debt of twenty-two thousand six hundred and sixty-four dollars per mile, to be appropriated towards the payment of such interest.

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ARTICLE 10. — In case the said party of the second part, its successors or assigns, shall at any time or times hereafter during the term aforesaid fail or omit to pay the rent hereinbefore mentioned or provided to be paid by the party of the second part or any part of such rent when the same shall have become payable as hereinbefore specified, or in case the party of the second part, its successors or assigns, shall fail or omit to fully keep and perform the covenants and agreements herein contained or any of them, and shall continue in default in respect to the payment of such rent or the performance of such covenants and agreements for the period of ninety days, then in either and every such case it shall be lawful for the party of the first part, its successors or assigns, at its or their own option, and without notice to the party of the second part, to enter into and upon the railroad and premises hereinbefore demised and each and every part thereof, and remove all persons therefrom, and from thenceforth the said demised railroad and premises, with the equipment and appurtenances thereof, and all additions and improvements which shall have been made to the same, except so far as such additions and improvements shall belong to the party of the second part under Article 11, to have, hold, possess and enjoy, as of the first or former estate of the said party of the first part in the said demised premises; and upon such entry for non-payment of rent or breach or non-performance of any covenant or agreement herein contained to be by the said party of the second part observed or performed, all the estate, right, title, interest, property, possession, claim and demand whatsoever of the party of the second part, its successors or assigns, in and to

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the said demised railroad and premises, or any part thereof, obtained in, under, or by virtue of this lease, shall wholly and absolutely cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. And in case of such re-entry as aforesaid, the rent hereinbefore provided and the several instalments thereof shall be apportioned from the time for which the last preceding payment of such instalment was made up to the time of such re-entry, and such portion thereof as would have been payable in respect to the intervening time if the whole period in respect to which such instalment was payable had lapsed, shall be deemed and taken to be due and payable, and the said party of the second part shall pay the same. And it is further declared and agreed that such re-entry shall not waive or prejudice any claim or right of the party of the first part to or for damages against the party of the second part on account of such non-payment of rent, or the non-performance or breach of the terms of this lease; and all such claims and demands and rights thereto are hereby expressly preserved to the party of the first part.

ARTICLE II.—And the said party of the second part hereby covenants, promises and agrees to and with the said party of the first part, that upon the expiration and at the end of the said term, or other sooner determination of this lease, the said party of the second part shall and will redeliver and surrender to the party of the first part, its successors or assigns, the said demised railroad and premises in as good order and condition as the same shall be delivered to the party of the second part under this lease, with such additions, betterments and improvements as shall have been made thereto, and also all rolling-stock, equipment and other property delivered under this lease in as good order and condition as its reasonable use and wear, proper repairs and replacements thereof being made from time to time, will permit; or rolling-stock, equipment and other similar property equivalent in character, amount and condition thereto. And it is further mutually agreed that all the rolling-stock, equipment, machinery, tools, implements and furniture, and other similar property, which the party of the first part shall at the time of delivering possession of the said demised railroad and premises, as herein-

before provided, transfer and deliver to the party of the second part for use upon or in connection with said demised railroad and premises, shall be scheduled and valued, and all rolling-stock, equipment, machinery, tools, implements, furniture, and other similar property which the party of the second part, its successors or assigns, shall, upon the expiration and at the end of said term, or other sooner determination of this lease, redeliver and surrender to the party of the first part, its successors and assigns, shall likewise be scheduled and valued, by two persons, one to be selected by each of the respective parties, its, his or their duly authorized officer or agent; and in case of disagreement of the persons so appointed, by an umpire previously to be selected by said parties or their duly authorized officer or agent, and that the decision of such umpire shall be final; and all rolling-stock, equipment, machinery, tools, implements, furniture and other similar property used upon or in connection with said demised railroad and premises by the party of the second part, in excess of what shall be required by the terms hereof to keep good and replace similar property of the party of the first part, shall belong to the said party of the second part, and said appraisers or said umpire shall have power to make division and apportionment of all such property; and the party of the first part may at its option purchase whatever of such property shall be allotted to the party of the second part, at a price to be determined by said appraisers or said umpire. And in any such division any equipment acquired by payments of instalments shall belong to the several parties in proportion to the amounts severally paid therefor by each party. It is further agreed, inasmuch as this lease is made upon the understanding that the railroad of the party of the first part shall be on the second day of December, 1878, in thorough running order and condition, that in case the party of the second part shall claim that it is not in such order and condition at that date, the question whether it is so or otherwise, and if otherwise what amount is required to be expended by said party of the second part to put it in such order and condition, shall be determined by appraisers or an umpire to be appointed as above provided; and the amount so determined shall be expended by said party of the second

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part, and shall be allowed to said party in the adjustment and settlement to be made at the end of the term or the earlier determination thereof.

ARTICLE 12.—The said party of the first part hereby covenants, promises and agrees to and with the said party of the second part, its successors and assigns, that it, the said party of the first part, its successors and assigns, shall and will at any time or times hereafter and whenever thereunto requested by the party of the second part, its successors or assigns, execute, acknowledge and deliver to the said party of the second part, its successors and assigns, at the proper cost and expense of the party of the second part, its successors and assigns, any and all such other and further instruments and assurances in the law for the better demising and leasing of the said railroad and premises to the said party of the second part, its successors and assigns, upon and subject to all and singular the rents, covenants, agreements and conditions hereinbefore reserved and mentioned as by the party of the second part or its successors or assigns, or by its or their counsel learned in the law shall be reasonably advised devised or required, provided that at the time of such request, the said party of the second part, its successors or assigns, shall not be in default in respect to the payment of any rent or other moneys hereinbefore agreed to be paid by it, or in default in respect to any of the covenants and agreements hereinbefore contained, to be kept and performed on its behalf; and said party of the second part covenants, promises and agrees to and with the party of the first part, its successors and assigns, that the said party of the second part, its successors and assigns, shall and will at any time or times hereafter and whenever thereto requested by the party of the first part, its successors or assigns, execute, acknowledge, and deliver any and all instruments for the more effectually assuring the payment of the rent hereinbefore reserved or agreed to be paid, and the application of such rent money to and for the purposes herein set forth, and the performance of the promises and agreements hereinbefore set forth on behalf of the party of the second part to be kept and performed, as by the said party of the first part, its successors or assigns, or by its or their counsel learned in the law should be reasonably advised, devised, and required.

ARTICLE 13.—None of the provisions of this lease shall be abrogated or modified unless with the formal written consent of the trustees of the present mortgages of the party of the first part, or of the holders duly evidenced as such, owning or legally representing not less than two millions dollars of the bonds issued thereunder.

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IN TESTIMONY WHEREOF, the said corporations, parties hereto, have caused these presents to be signed by their respective presidents thereto duly authorized, and their corporate seals to be hereto affixed the day and year first above written.

THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY.

By THOS. NICKERSON,

[SEAL]

Prest.

Attest:

GEO. L. GOODWIN, *Asst. Secy.*

THE DENVER & RIO GRANDE R.W. COMPANY.

By WM. J. PALMER,

[SEAL]

Prest.

Attest:

WALTER HINCHMAN,

Assistant Secretary.

COMMONWEALTH OF MASSACHUSETTS, }
COUNTY OF SUFFOLK, CITY OF BOSTON, } ss.

Be it remembered that on this thirteenth day of December, A.D. 1878, before me the undersigned Samuel Jennison, Commissioner of the State of Colorado, residing in Boston, duly commissioned and qualified by the Governor and under the laws of said State to take acknowledgment of deeds &c. to be used or recorded therein, personally came Thomas Nickerson, President of the Atchison, Topeka and Santa Fe Railroad Company, personally known to me to be the same person who has executed the foregoing instrument in the name and behalf of said Company one of the parties thereto, and acknowledged that he and said Company by him, executed the same, and that it was his and said Company's voluntary act and deed for the uses and purposes therein expressed. And being by me duly sworn, said

Acknowledgment by
Atchison Co. and
affidavit of execution
by Thomas Nickerson,
President.

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Thomas Nickerson did depose and say that he was such President; that the seal affixed to said instrument was the corporate seal of said Company, and that he signed the same and said corporate seal was thereto affixed by authority of said Company.

IN WITNESS WHEREOF I have hereunto set my hand and official seal at said Boston this 13th day of December A.D. 1878.

[SEAL]

SAMUEL JENNISON,
Commissioner for Colorado in Boston.

Acknowledgment by
Rio Grande Co. and
affidavit of execution
by William J. Palmer,
President.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

Be it remembered, that on this 22nd day of November A.D. 1878 before me, Charles Edgar Mills, a Commissioner of the State of Colorado, in and for the State of New York, residing in said City of New York, personally appeared William J. Palmer, the President of the Denver and Rio Grande Railway Company, and Walter Hinchman the Assistant Secretary of the same company, to me respectively personally known to be such, who being by me severally duly sworn, did depose and say, that he, said William J. Palmer resided in Colorado Springs, Colorado; that he, said Walter Hinchman resided in the City, County and State of New York, that he, said William J. Palmer was the President, and he, said Walter Hinchman was the Secretary of the said Company, that they know the corporate seal of said Company, that the seal affixed to the foregoing instrument is such corporate seal, that it was so affixed thereto by order of the Board of Directors of said Company, and that they the said William J. Palmer and Walter Hinchman signed their names thereto by the like order as President and Secretary of said Company respectively and they each respectively further acknowledged the within instrument to be their own free and voluntary act and deed and the free and voluntary act and deed of said Company.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal this 22d day of November A.D. 1878.

[SEAL]

CHARLES EDGAR MILLS,
*Commissioner for Colorado in
New York, 150 Broadway, N.Y. City.*

AGREEMENT OF ESCROW

AS TO FOREGOING LEASE.

This Memorandum of Agreement made the Nineteenth day of October 1878

Oct. 19, 1878.

WITNESSETH

WHEREAS the Denver and Rio Grande Railway Company has made and executed a certain instrument in writing bearing even date herewith whereby it undertakes to grant, lease, and demise to the Atchison Topeka and Santa Fe Railroad Company all that certain Railroad (337 miles more or less exclusive of sidings) and other property therein more particularly described in consideration of a certain rent therein reserved and certain covenants promises and agreements therein contained by the said Atchison Topeka and Santa Fe Railroad Company to be paid, kept, and performed as thereby reference being thereunto had, will more fully appear and the said Denver & Rio Grande Railway Company thereby agrees to pay or provide for all its debts incurred up to the time of delivery of possession thereunder in excess of Twenty Two thousand Six hundred and sixty four dollars per mile and the said Atchison Topeka and Santa Fe Railroad Company has agreed to and accepted the terms of such lease in form and in substance and in evidence thereof has likewise executed a counterpart of said instrument and whereas it is in and by said instrument provided that possession of the demised railway property should be surrendered and delivered by the said lessor company to the said lessee company and the term thereby granted is to commence on the second day of December Eighteen hundred and seventy eight

Now this memorandum witnesseth that the parties to said instruments or leases have agreed that the same so executed shall be deposited with S. B. Schlesinger of Boston in escrow pending the performance by the several parties, hereinafter named of the acts to be done and performed by them respectively. Whereas it is necessary and advisable in order to make such lease binding and effectual that the same and the terms thereof should be ratified and confirmed by the

Agreement of escrow
as to foregoing lease.

Stockholders of the lessor Company and the Directors of the lessee Company parties thereto.

I. Pending the ratification thereof by the Stockholders or Directors of said Companies respectively.

AND WHEREAS in and by said lease the said Atchison Topeka and Santa Fe Railroad Company has agreed to pay in cash for the fuel material and supplies on hand at the time of delivery of possession of the demised property to it at a price to be determined as in said lease provided and it is intended that the money so to be paid is to be applied towards paying or providing for the said debt of the lessor Company in excess of the amount of twenty two thousand Six hundred and Sixty four dollars per mile aforesaid.

II. Pending the deposit by said Atchison, Topeka, and Santa Fe Railroad Company with S. B. Schlesinger as Trustee of the money so to be agreed by it.

AND WHEREAS it is also intended as part of the entire plan that the capital stock of the Denver and Rio Grande Railway Company consisting of Eighty five thousand shares of one hundred dollars each shall to the extent practicable be controlled in the interest of the Pueblo and Arkansas Valley Railroad Company and to that end William J. Palmer and Alden Speare have agreed substantially as follows:— That the said William J. Palmer shall on or before the first day of December Eighteen hundred and seventy eight, deposit Forty two thousand Five hundred and ten shares of the capital stock of the Denver and Rio Grande Railway Company with T. Jefferson Coolidge as Trustee and that the said Alden Speare shall likewise on or before that day deposit with said Trustee Eight thousand five hundred and two shares of one hundred dollars each in the full paid stock of the Pueblo and Arkansas Valley Railroad Company.

III. Pending the deposit of said shares by said parties respectively on the second day of December 1878 if by that time.

1. Said lease shall have been ratified as aforesaid.
2. And the Atchison Topeka and Santa Fe Railroad Company shall have deposited said moneys.
3. And the said William J. Palmer and Alden Speare shall respectively have deposited said shares the said S. B. Schlesinger trustee shall deliver to each of said Companies

the instrument executed by the other under such other Company's seal but if prior to said second day of December 1878 the said lease shall not have been ratified by the stockholders of the lessor company and the Directors of the lessee company or either of them or the said Atchison Topeka and Santa Fe Railroad Company shall not have deposited the said money or the said William J. Palmer and Alden Speare or either of them shall not respectively have deposited the said shares then the said S. B. Schlesinger shall continue to hold the said instruments in escrow pending the performance by the party or parties in default of the act or thing by such party or parties respectively required to be performed and thereupon immediately after the party or parties in default shall have done and performed the act of such party or parties respectively required the said S. B. Schlesinger shall deliver such instruments as aforesaid and when delivered in accordance herewith the said instruments shall thereupon immediately become and be of full force and effect from and after such delivery but at the time, said trustee shall deliver said instruments he shall likewise pay over to the Denver & Rio Grande Railway Company or any person by it authorized to receive the same the money which the said Atchison, Topeka and Santa Fe Railroad Company shall have deposited with him as the price or value of the fuel material and railroad supplies on hand at the time of such delivery to be applied to reduction of the debts of D. & R. G. Co. in excess of \$22664. per mile it being the true intent and meaning of these presents that ratification by the Stockholders of the Denver and Rio Grande Railway Company and by the Directors of the Atchison, Topeka and Santa Fe Railroad Company of the lease as aforesaid, the deposit of the money by the said Atchison, Topeka and Santa Fe Railroad Company the deposit of said shares by William J. Palmer and Alden Speare respectively are all parts of one transaction and that the lease shall have no validity unless the parties named shall severally do and perform their respective parts but that sufficient time shall be afforded them to do so.

Agreement of escrow
as to foregoing lease.

THE DENVER & RIO GRANDE R.W. Co.

By WM. J. PALMER.

THE ATCHISON, TOPEKA & SANTA FE R.R. Co.

By THOS. NICKERSON.

Signed in presence of

THEODORE V. H. MEYER.

**ATCHISON COMPANY'S CIRCULAR OF
REPOSSESSION**

RECITING THE DECREES OF COURT ORDERING THE SAME.

Atchison, Topeka and Santa Fe Railroad Co.,
Lessee Denver and Rio Grande Railway.

July 16, 1879.

OFFICE VICE-PRESIDENT AND GENERAL MANAGER,
TOPEKA, KANSAS, July 16, 1879.

(COPY.)

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
DISTRICT OF COLORADO, WESTERN DIVISION.

CHAS. W. WRIGHT, ATTORNEY GENERAL, ON THE RELATION OF
SAMUEL C. STOUT, *et al.*

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILROAD COMPANY, AND
THE DENVER & RIO GRANDE RAILWAY COMPANY.

And now on this day, this cause coming on to be further heard, on the petition and motion of the defendant, the Atchison, Topeka & Santa Fe Railroad Company, heretofore filed herein, and it appearing to the Court that on the ninth day of June, A.D., 1879, this cause was duly removed from the District Court of Colorado, for the County of Costilla to the District Court of the United States for the District of Colorado and western division thereof, and that under color of an order made in the said cause on the ninth day of June, A.D., 1879, by the Hon. Thomas M. Bowen, Judge of said District Court of Colorado, for the County of Costilla, in said petition mentioned, after said cause was duly removed as aforesaid, to wit : on the tenth day of June, A.D., 1879, there was issued out of said District Court of Colorado, for the County of Costilla, by the Clerk thereof, a pretended writ of injunction as shown by the petition and proofs herein.

And it appearing to the Court that under color of the

said order, and of the said pretended writ of injunction, the said Denver & Rio Grande Railway Company, and its officers, agents and servants did, on the tenth day of June, A.D., 1879 and subsequent thereto, wrongfully and unlawfully take from the said Atchison, Topeka & Santa Fe Railroad Company, possession of all the railroad of the Denver & Rio Grande Railway Company, theretofore in possession of the said Atchison, Topeka & Santa Fe Railroad Company, including its rolling stock and other property mentioned and described in said petition.

Atchison Co.'s Circular
of Repossession.

It is therefore ordered and decreed by the Court that within three days from this twenty-fifth (25) day of June, A.D., 1879, and without further notice hereof, the said Denver & Rio Grande Railway Company, its officers, agents and servants return, restore and deliver to the said Atchison, Topeka & Santa Fe Railroad Company, the full and complete possession of all of the said railroad, together with all rolling stock used in operating the same, and all other property mentioned in said petition, and which was, on or subsequent to the tenth day of June, A.D., 1879, taken possession of by the said Denver & Rio Grande Railway Company, its officers, agents and servants, as aforesaid.

At Denver in vacation, this 25th day of June, A.D., 1879.

(Signed)

MOSES HALLETT,

District Judge.

(COPY.)

CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLORADO.

LOUIS A. MYER,

vs.

DENVER AND RIO GRANDE RAILWAY CO.,
ATCHISON, TOPEKA AND SANTA FE RAILROAD CO.

} IN CHANCERY.

This cause having heretofore come on to be heard on motion of the Atchison, Topeka and Santa Fe Railroad Company to discharge the Receiver heretofore appointed herein, and the Court being now fully advised in the premises, doth order and decree that said Receiver be and he is hereby discharged.

Atchison Co.'s Circular
of Repossession.

It is further ordered and decreed that said Receiver deliver all property which has come to his hands as such Receiver, and now remaining therein, except moneys, to the said Denver and Rio Grande Railway Company on or before the hour of twelve o'clock noon of the sixteenth day of July, A.D., 1879, and that said Receiver, within 30 days after the sixteenth, account before the Master of this Court for all property and moneys received by him as such Receiver, and for all property delivered under this order to the said Denver and Rio Grande Railway Company; and also for all moneys received and expended by him; and that said Receiver pay into the Registry of this Court all moneys in his hands, or which may come into his hands as such Receiver, and render forthwith an account of the same before the Master of this Court of and concerning the same; and that such moneys so paid into the Registry of such Court be subject to the further order of the Court; and that he make such further report of his acts and doings in the premises to the Master as he may be advised for the protection of his rights and those of the parties.

It is further ordered that either of the parties to this suit be at liberty to appear before the said Master and examine said Receiver under oath and concerning his accounts relative to the several matters aforesaid.

(Signed)

SAM F. MILLER.

JULY 14, 1879.

(COPY.)

OFFICE OF THE

DENVER & RIO GRANDE RAILWAY COMPANY.

DENVER, COL., 9:30 A.M., July 16, 1879.

TO THE EMPLOYEES OF THE CONSTRUCTED ROAD OF THE
DENVER & RIO GRANDE RAILWAY CO., LATELY OPER-
ATED BY THE RECEIVER, H. A. RISLEY, ESQ.:

The Hon. Moses H. Hallett, Judge of the District Court
of the United States for the Western District of Colorado,
having ordered the Denver & Rio Grande Railway Co. to
deliver possession of its constructed railway and property

thereto appurtenant, to the Atchison, Topeka & Santa Fe R.R. Co., and direction to comply with such order having been issued, you are hereby requested to report to and obey the orders of that Company and its officers, from and after this hour.

Atchison Co.'s Circular
of Repossession.

Respectfully,

(Signed)

WM. J. PALMER,
President.

By virtue of the above orders the possession of the Denver & Rio Grande Railway is this day restored to the Atchison, Topeka and Santa Fe Railroad Company, after an interruption of five weeks. The officers of the Division in charge at the time we were deprived of possession will now resume their duties, with the exceptions and changes noted below :

W. W. BORST, Division Superintendent, Denver, Col.

R. B. GEMMELL, Superintendent Telegraph, Topeka, Kansas.

J. H. SCOTT, Train Master, Pueblo, Col.

D. HARDY, Chief Dispatcher, Pueblo, Col.

G. G. BRADSTREET, Superintendent Track, Bridges and Buildings, Denver, Col.

A. ROGERS, Road Master, Denver, Col., (vice M. Green, removed).

A. C. STILES, Division Master Mechanic, Denver, Col., (vice N. W. Semple, removed).

Employees will report to and be governed by the instructions of the Heads of the Departments in which they are employed respectively.

W. B. STRONG,
Vice-President and General Manager,
A. T. & S. F. R.R. lessee D. & R. G. Ry.

AGREEMENTS

OF MARCH 27, 1880 AND DECREES OF COURT TERMINATING
DENVER & RIO GRANDE CONTROVERSIES.

Agreement between
Atchison Co. and
D. & R. G.
March 27, 1880.

THIS INDENTURE, made this twenty-seventh day of March, A.D. one thousand eight hundred and eighty, by and BETWEEN the ATCHISON, TOPEKA AND SANTA FÉ RAILROAD COMPANY, party of the first part, and the DENVER AND RIO GRANDE RAILWAY COMPANY, party of the second part,—

WITNESSETH that, for and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto have agreed and hereby do agree, one with the other, as follows:—

FIRST.—That two certain counterparts of an instrument or lease, severally executed by each of the parties hereto respectively, and deposited in escrow with S. B. Schlesinger of Boston, under the provisions of a certain other agreement between said parties, bearing date October 19, 1878, shall be returned and surrendered,—to each of the parties hereto, the counterpart executed by it under its corporate seal,—for cancellation; and, without any actual surrender and cancellation, such instruments, and each of them, shall henceforth be deemed and held to be of no force, validity, or effect whatever; and the said party of the first part hereby expressly renounces any claim or right to possession of the property in said instrument or lease mentioned and described, or any part thereof, under such instrument or any other agreement between the parties, express or implied.

SECOND.—That the agreement whereunder said counterparts were deposited and held be, and the same is hereby declared to have been, terminated and become void.

THIRD.—That the money or check of the Atchison, Topeka and Santa Fé Railroad Company for \$75,000, placed in the hands of said S. B. Schlesinger by the said Atchison, Topeka and Santa Fé Railroad Company, in pursuance of the aforesaid or other agreements between the parties hereto, shall be returned to the said Atchison, Topeka and

Santa Fé Railroad Company; and the Denver and Rio Grande Railway Company hereby expressly agrees to and authorizes such return, and relinquishes whatever right therein or thereto it has or heretofore claimed to have.

Agreement between
Atchison Co. and
D. & R. G.

AND WHEREAS the parties hereto have this day cancelled and delivered up, each to the other, all covenants and written contracts between them upon which each claimed to have demands upon the other, and upon which disputes have arisen between them, and the claims and instruments so cancelled and delivered up, or hereby declared to have been cancelled and delivered up, are supposed or intended to be all the claims and evidence, or foundation of claims heretofore made by either of the parties hereto upon the other,—

Now, in consideration thereof and of the premises, each of the parties hereto does hereby release and absolutely and forever discharge the other of and from all claims and demands, actions and causes of action, of every name and nature, so that neither of them shall have any claim upon the other, directly or indirectly, on any contract or agreement, or supposed contract or agreement, made and entered into subsequent to October 1, 1878, in respect of said lease and contract relating thereto, or growing out of the same, or in respect of any acts or omissions under the same, or any matter or thing undertaken, done, suffered or omitted to be done from the beginning of the world to this day.

AND WHEREAS suits were heretofore brought and commenced by each of the parties or its officers or agents against the other, its officers or agents solely or impleaded with others on behalf of the party of the first part, for the specific performance of the contracts and agreements, or supposed contracts and agreements, hereinbefore declared cancelled and delivered up, or for the enforcement of its supposed rights thereunder, and on behalf of the party of the second part for the rescission of said contracts and agreements, or supposed contracts and agreements, which suits and proceedings are now pending,—

NOW THIS INDENTURE ALSO WITNESSETH that the parties hereto, binding themselves, their officers, agents, and representatives, agree each with the other that all such suits and proceedings, and the controversies therein, shall be dismissed at the instance of the party defending or resisting, without

Agreement between
Atchison Co. and
D. & R. G.

hindrance from the other party, its officers, agents, or representatives, each party agreeing to pay its own costs and expenses.

AND WHEREAS certain actions, suits, and proceedings were commenced by, or on behalf of, or at the instance of certain persons now or heretofore employed by or representing the Atchison, Topeka and Santa Fé Railroad Company, or the Pueblo and Arkansas Valley Railroad Company, or at the instance of them, or either of them, against officers of the law and employees and officers of the Denver and Rio Grande Railway Company;

AND WHEREAS certain actions, suits, and proceedings were commenced by, or on behalf of, or at the instance of certain persons now or heretofore employed by or representing the Denver and Rio Grande Railway Company, or at the instance of said Denver and Rio Grande Railway Company, against officers of the law and officers and employees of the Atchison, Topeka and Santa Fé Railroad Company, and employees and officers of the Pueblo and Arkansas Valley Railroad Company: Now each party agrees with the other to use all reasonable efforts to persuade and to exert its influence with the respective parties to dismiss all pending suits.

IN WITNESS WHEREOF, the said parties have caused their corporate seals to be hereunto annexed, and the same to be attested by the signatures of their Presidents and Secretaries respectively, the day and year first above written.

ATCHISON, TOPEKA & SANTA FÉ RAILROAD CO.

By THOS. NICKERSON,
President.

Attest:

GEO. L. GOODWIN,
[CORPORATE SEAL.] *Assistant Secretary.*

THE DENVER & RIO GRANDE RAILWAY CO.

By WM. J. PALMER,
President.

Attest:

WM. WAGNER,
[CORPORATE SEAL.] *Secretary.*

KNOW ALL MEN BY THESE PRESENTS: THAT, Release by P. & A. V.
 WHEREAS the Pueblo and Arkansas Valley Railroad Company
 has heretofore claimed some interest in or benefit under the
 contracts and agreements or lease, or supposed contracts,
 agreements, and lease declared cancelled in the annexed
 instrument between the parties thereto:

NOW, THEREFORE, KNOW YE that the said Pueblo and
 Arkansas Valley Railroad Company, for and in considera-
 tion of the sum of One Dollar to it duly paid by each of the
 parties to said annexed instrument, the receipt whereof is
 hereby acknowledged, doth hereby authorize, consent, and
 agree that the contracts and agreements in said annexed
 instrument referred to be cancelled, surrendered, and de-
 livered up, as therein provided, and doth irrevocably re-
 nounce and release all right, claim, and interest heretofore
 insisted on therein or thereto, or in the suits and contro-
 versies concerning the same, or the benefits it might or
 could derive therefrom or thereunder, but for the execution
 of the annexed instrument and this consent.

IN WITNESS WHEREOF, the said Pueblo and Arkansas
 Valley Railroad Company has caused its corporate seal to
 be hereunto affixed, and the same to be attested by its
 President and Secretary, this twenty-seventh day of March,
 one thousand eight hundred and eighty.

THE PUEBLO & ARKANSAS VALLEY RAILROAD CO.

By THOS. NICKERSON,
Managing Director.

Attest:

[CORPORATE SEAL] S. W. REYNOLDS,
Assistant Secretary.

THIS INDENTURE, made this twenty-seventh day of
 March, A.D. one thousand eight hundred and eighty, by and
 between ALDEN SPEARE, of Boston, party of the first part,
 and WILLIAM J. PALMER, party of the second part,—

Cancellation by Alden
 Speare and William J.
 Palmer of Agreement
 of Oct. 19, 1878.

WITNESSETH, WHEREAS the said parties, on or about the
 nineteenth day of October, one thousand eight hundred and
 seventy-eight, entered into a certain contract or agreement
 in writing bearing date on that day, which contract or agree-
 ment was deposited with S. B. Schlesinger, of Boston;

Cancellation by Alden
Speare and William J.
Palmer of Agreement
of Oct. 19, 1878.

AND WHEREAS, in pursuance thereof, the said Palmer caused to be deposited with and transferred to T. Jefferson Coolidge, as the Trustee in said agreement named, 42,510 Shares of the Capital Stock of the Denver and Rio Grande Railway Company;

AND WHEREAS, in pursuance thereof, the said Speare caused to be deposited with and transferred to said T. Jefferson Coolidge, as the Trustee in said agreement named, 8,502 Shares of the Capital Stock of the Pueblo and Arkansas Valley Railroad Company, 3,502 whereof were subsequently by said Coolidge transferred and delivered to said Palmer;

AND WHEREAS the said Palmer, simultaneously with the delivery of this Indenture, has redelivered the shares of the Pueblo and Arkansas Valley Railroad Company's stock, received by him as aforesaid, to said Coolidge; and the said Speare has simultaneously herewith caused the shares of the Denver and Rio Grande Railway Company's stock, deposited by said Palmer as aforesaid, to be redelivered to him:

NOW, THEREFORE, THIS INDENTURE WITNESSETH that, in consideration of the premises and the mutual covenants hereinafter contained, and One Dollar to each of the parties hereto in hand paid by the other at or before the ensealing and delivery of these presents, the parties hereby do agree as follows:—

FIRST.—That the said agreement of October 19, 1878, and a certain letter of said date, signed by Thomas Nickerson and relating thereto, be cancelled and surrendered, and that the same and all their parts and provisions are hereby declared null and void, whether the same shall be actually cancelled or not.

SECOND.—Each of the parties hereto hereby, absolutely, and forever discharges the other of and from any and all liabilities or claims for any matters, causes, or things done or omitted to be done, in violation of said agreement or any of its provisions, and for which any claim might or could be made by one against the other but for the execution of these presents.

IN WITNESS WHEREOF, the parties have hereunto interchangeably set their hands and affixed their seals, the day and year first above written.

ALDEN SPEARE. [SEAL]
WM. J. PALMER. [SEAL]

KNOW ALL MEN BY THESE PRESENTS: Whereas, the Atchison, Topeka and Santa Fe Railroad Company and the Pueblo and Arkansas Valley Railroad Company severally claimed some interest in and rights under a certain contract or agreement referred to in the annexed instrument, and the shares of stock which were to be exchanged thereunder,—

Release by Atchison
Co. and P. & A. V.

NOW, THEREFORE, KNOW YE that the said contract or agreement has been cancelled and declared null and void by the parties thereto, as in the annexed instrument provided, with the consent of the said Atchison, Topeka and Santa Fe Railroad Company and the said Pueblo and Arkansas Valley Railroad Company.

IN WITNESS WHEREOF, the said several Companies have caused their corporate seals to be hereunto affixed, and the same to be attested by the signatures of their Presidents and Secretaries respectively, this twenty-seventh day of March, 1880.

ATCHISON, TOPEKA & SANTA FE RAILROAD CO.

By THOS. NICKERSON,

Attest: *President.*

GEO. L. GOODWIN,

[CORPORATE SEAL] *Assistant Secretary.*

THE PUEBLO & ARKANSAS VALLEY RAILROAD CO.

By THOS. NICKERSON,

Attest: *Managing Director.*

S. W. REYNOLDS,

[CORPORATE SEAL] *Assistant Secretary.*

TO ALL TO WHOM THESE PRESENTS SHALL COME OR MAY IN
ANY WISE CONCERN:

Release by William J.
Palmer of T. Jefferson
Coolidge.

I, WILLIAM J. PALMER, *send greeting:*—

WHEREAS, under a certain agreement, bearing date October 19, 1878, made by and between me and Alden Speare, of Boston, I deposited with and transferred to T. Jefferson Coolidge, as Trustee, 42,510 shares of the Denver and Rio Grande Railway Company's stock, and said shares have

Release by William J.
Palmer of T. Jefferson
Coolidge.

been redelivered to me, and said agreement has been cancelled by mutual consent, —

NOW, THEREFORE, KNOW YE that I hereby do absolutely and forever discharge the said T. Jefferson Coolidge of and from any and all manner of liability for any matter, cause, or thing done or omitted to be done by him as holder of the said shares, or while the same were standing in his name on the books of said Company. And I hereby transfer and release to said Coolidge all my right, title, and interest as trustee or otherwise of, in, or to any and all shares of Pueblo and Arkansas Valley Railroad Company's stock which were at any time deposited with said Coolidge under the aforesaid agreement, and hereby transfer said shares, free from any interest, claim, or lien of any and all persons claiming or to claim the same from, by, through, or under me as trustee or otherwise.

And I further covenant that I will keep said Coolidge harmless against any claims or demands which any party may have or make against him for or on account of the premises.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this twenty-seventh day of March, A.D. 1880.

WM. J. PALMER. [SEAL]

Agreement of Jay
Gould and C. F.
Woerishoffer to
indemnify Coolidge
and Speare for
transfer to Palmer,
Trustee.

WHEREAS T. Jefferson Coolidge and Alden Speare have, at our request, this day caused to be transferred to William J. Palmer, Trustee, forty-two thousand five hundred and ten shares of the Capital Stock of the Denver and Rio Grande Railway Company,—

NOW, THEREFORE, in consideration of the premises, and of One Dollar to us paid by said Coolidge and Speare, the receipt whereof is hereby acknowledged, we hereby agree with them that said Palmer shall faithfully discharge the trust upon which said shares are transferred to him, and that we will indemnify and save harmless the said Coolidge and Speare against any and all loss, expense and damage, by reason of any claim which may be made upon them or either of them by any party claiming a beneficial interest in any of

did shares, by reason of any default of said Palmer in the disposition of said shares or any of them.

Witness our hands and seals this twenty-seventh day of March, A.D. 1880.

JAY GOULD. [SEAL]
C. F. WOERISHOFFER. [SEAL]

WHEREAS William J. Palmer has, at our request, this day transferred to T. Jefferson Coolidge, Trustee, three thousand five hundred and two shares of the Capital Stock of the Pueblo and Arkansas Valley Railroad Company,—

Agreement of Atchison Co. and P. & A. V. to indemnify William J. Palmer for transfer to Coolidge, Trustee.

Now, THEREFORE, in consideration of the premises, and of one Dollar to us paid by said William J. Palmer, the receipt hereof is hereby acknowledged, we hereby agree with him that said Coolidge shall faithfully discharge the trust upon which said shares are transferred to him, and that we will indemnify and save harmless the said Palmer against any and all loss, expense, and damage by reason of any claim which may be made upon him by any party claiming a beneficial interest in any of said shares, by reason of any default of said Coolidge in the disposition of said shares, or any of them.

Witness our hands and seals this twenty-seventh day of March, A.D. 1880.

ATCHISON, TOPEKA & SANTA FE RAILROAD CO.

By THOS. NICKERSON,
President.

Attest:

GEO. L. GOODWIN,
[CORPORATE SEAL] *Assistant Secretary.*

THE PUEBLO & ARKANSAS VALLEY RAILROAD CO.

By THOS. NICKERSON,
Managing Director.

Attest:

S. W. REYNOLDS,
[CORPORATE SEAL] *Assistant Secretary.*

Decree of Circuit
Court of U.S. signed
by all the parties.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR
THE DISTRICT OF COLORADO.

THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY
against

THE DENVER AND RIO GRANDE RAILWAY COMPANY, THE
PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, WILL-
IAM J. PALMER, ALDEN SPEARE, T. JEFFERSON COOLIDGE,
SEBASTIAN B. SCHLESINGER, and LOUIS H. MEYER.

THE DENVER AND RIO GRANDE RAILWAY COMPANY
against

THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY
and others, *Defendants.*

IT APPEARING to the Court that, by agreement of the parties to these causes, the instruments, or agreements, the enforcement whereof was prayed for in the original and amended bills of complaint, and the rescission whereof was sought by the prayer in the cross-bill aforesaid, have been surrendered and cancelled, and certain shares of the Capital Stock of the Denver and Rio Grande Railway Company deposited by the defendant, William J. Palmer, with the defendant, T. Jefferson Coolidge, have been transferred back by or on behalf of the defendants, T. Jefferson Coolidge and Alden Speare, to the defendant Palmer, and certain shares in the Capital Stock of the defendant, the Pueblo and Arkansas Valley Railroad Company, delivered to the defendant, William J. Palmer, were retransferred by said Palmer to said Coolidge; and that a certain check for \$75,000, deposited by the Atchison, Topeka and Santa Fé Railroad Company with the defendant, S. B. Schlesinger, and held by him, was returned,—

NOW, ON READING AND FILING the consent of the parties to said suits, AND ON MOTION of
for the Denver and Rio Grande Railway Company,

IT IS ORDERED AND DECREED that the original and amended Bills of Complaint of the said Atchison, Topeka and Santa Fé Railroad Company, and the Cross-Bill of the Denver and Rio Grande Railway Company, be, and they are hereby, dismissed, without costs to either of the parties as against the

other or others; and the order of this Court, appointing L. C. Ellsworth Receiver in these causes, be, and the same is, vacated and set aside. And the said Receiver is hereby

Decree of Circuit
Court of U. S. signed
by all the parties.

ORDERED and directed forthwith to deliver, surrender, and turn over possession and control of all the property and effects which came into his hands as such Receiver to the said Denver and Rio Grande Railway Company on demand, and deposit all balances of money remaining in his hands after paying all demands against him as Receiver, including traffic balances due the Atchison, Topeka and Santa Fé Railroad Company, and others, and all lawful claims against the said money, in the National Bank of Commerce in the City of New York, to the credit of the defendant, the Denver and Rio Grande Railway Company.

IT IS FURTHER ORDERED that, within sixty days after such surrender and delivery, the said Receiver file his final accounts as such Receiver with the Clerk of this Court, and give notice thereof to said Denver and Rio Grande Railway Company; and that, unless the said Denver and Rio Grande Railway Company shall file exceptions or objections thereto within thirty days after such notice, the said Receiver and his sureties shall stand discharged, and his bond, as such, be cancelled. But, in case the said Denver and Rio Grande Railway Company shall file any exception or objection to such accounts, it is hereby referred to John Webster, one of the Masters of this Court, to take the evidence thereon, and to report thereon to this Court according to the rules and practice of this Court with all convenient speed; with liberty to said Receiver and said Denver and Rio Grande Railway Company to take exceptions thereto.

We, the undersigned parties to the suits wherein the foregoing order or decree is entitled, hereby consent to the entry of the annexed order or decree in said suits.

Dated, March 27, 1880.

THE DENVER & RIO GRANDE RAILWAY CO.

By WM. J. PALMER,

Attest:

WM. WAGNER,

Secretary.

President.

[CORPORATE SEAL.]

WM. J. PALMER. [SEAL.]

Decree of Circuit
Court of U S. signed
by all the parties.

The undersigned further parties to said suits consent to the dismissal of the suits, the vacation of the order appointing the Receiver, and the turning over of the property to the Denver and Rio Grande Railway Company, on such provisions as to the debts and liabilities of the Receiver, including said traffic balances, as the Court may prescribe; and they consent to all of the foregoing order, except such parts thereof as relate to turning over the balance of money to the defendant, the Denver and Rio Grande Railway Company, and, having no interest therein, the undersigned neither consent to nor dissent therefrom.

Dated, March 27, 1880.

L. H. MEYER. [SEAL]

ATCHISON, TOPEKA & SANTA FÉ RAILROAD CO.

By THOS. NICKERSON,
President.

Attest:

GEO. L. GOODWIN,
Assistant Secretary.

[CORPORATE SEAL.]

THE PUEBLO & ARKANSAS VALLEY RAILROAD CO.

By THOS. NICKERSON,
Managing Director.

Attest:

S. W. REYNOLDS,
Assistant Secretary.

[CORPORATE SEAL.]

T. JEFFERSON COOLIDGE. [SEAL]

SEBASTIAN B. SCHLESINGER. [SEAL]

ALDEN SPEARE. [SEAL]

Agreement of
settlement between
P. & A. V. and
D. & R. G.

THIS INDENTURE made and entered into this twenty-seventh day of March, A.D. one thousand eight hundred and eighty, BETWEEN THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, party of the first part, and THE DENVER AND RIO GRANDE RAILWAY COMPANY, party of the second part.

WHEREAS disputes have arisen in the Federal Courts between the Denver and Rio Grande Railway Company on the

one side, and the Cañon City and San Juan Railway Company, and the Pueblo and Arkansas Valley Railroad Company subsequently consolidated under the name of Pueblo and Arkansas Valley Railroad Company, party of the first part, hereto, on the other side, as to the line or lines of railroad between Cañon City and Leadville through the Grand Cañon of the Arkansas to Leadville,

Agreement of
settlement between
P. & A. V. and
D. & R. G.

AND WHEREAS the Cañon City and San Juan Railway Company and the Pueblo and Arkansas Valley Railroad Company have constructed wholly or in part a line of railway between Cañon City and Leadville upon a right of way which is claimed by the Denver and Rio Grande Railway Company,—

Now, to compromise and settle the said disputes and litigations, THIS INDENTURE WITNESSETH that, for and in consideration of fourteen hundred thousand dollars, being the amount claimed to have been expended by the party of the first part or the corporations by the consolidation whereof it was formed for work and labor done, materials furnished, and services rendered in construction as aforesaid and interest thereon, and four hundred thousand dollars additional duly paid to the party of the first part by the party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and other good and sufficient considerations as hereinafter mentioned it thereunto moving, the party of the first part has remised, released, and forever quit-claimed, and hereby doth remise and release and forever quit-claim to the party of the second part all its right, title, and interest, claim, and demand whatsoever, both at law and in equity, of, in, and to the line for a railway, it or any of the corporations by the consolidation whereof it was formed heretofore had or claimed from a point at or near the depot of the Denver and Rio Grande Railway at Cañon City up the Valley of the Arkansas River through the Grand Cañon thereof, to a point at or near the mouth of the South Arkansas River, thence up the Valley of the main Arkansas River to Leadville, as well as that part thereof located on the public lands as that part thereof located on private property, including the railway constructed or partly constructed thereon; all the depot grounds, lands, rights of way, and other easements thereunto belonging or appertaining; all rails, tracks, bridges, viaducts, culverts, and other superstructures,

Agreement of
settlement between
P. & A. V. and
D. & R. G.

depots, water-tanks, houses, and other structures thereon, together with all and singular the tenements, hereditaments, easements and appurtenances thereunto belonging or in any wise appertaining, not including any material of any description provided for the use of the road, but not in the structure, provided such outside material has not been included in the Commissioner's Report for work and labor done, materials furnished, and services rendered in construction as aforesaid.

TO HAVE AND TO HOLD the said railway premises and property unto the party of the second part, its successors and assigns, as its or their own absolute property, so that neither the party of the first part nor any other person, corporation, or other party claiming or to claim the same by, from, or under it, the party of the first part, shall or will hereafter, in the name of the party of the first part or otherwise, claim or demand any right or title to the same or any part thereof, but it, he, or they, and every of them, shall by these presents be forever barred, provided that nothing herein contained shall in any manner prejudice the rights of the party of the first part, under the Act of Congress, approved March 3, 1875, relating to cañons, defiles, and passes, to locate and build a line of railway between the points aforesaid on or along the general route aforesaid, through the Grand Cañon of the Arkansas, or any rights it may have under said Act or become entitled to under any agreement between the parties hereto simultaneously herewith made and entered into and forming part of the consideration aforesaid.

AND THIS INDENTURE FURTHER WITNESSETH that, in consideration of the premises, and of the sum of One Dollar in hand paid by each of the parties hereto to the other, each hereby doth absolutely release, acquit, and forever discharge the other of and from any action, cause of action, liability, claims for damages or other demands of every kind or nature, of, for, or in respect of, or arising from any matter, cause, or thing heretofore suffered in or during the disputes and controversies that heretofore existed respecting said line for a railway and the litigations connected therewith.

IN WITNESS WHEREOF, the parties hereto have hereunto interchangeably caused their corporate seals to be hereunto affixed, and the same to be attested by the signatures of

their Presidents and Secretaries respectively, the day and year first above written.

Agreement of
settlement between
P. & A. V. and
D. & R. G.

THE PUEBLO & ARKANSAS VALLEY RAILROAD CO.,

By THOS. NICKERSON,

Attest:

S. W. REYNOLDS, *Managing Director.*

Assistant Secretary.

[CORPORATE SEAL.]

THE DENVER & RIO GRANDE RAILWAY CO.

By WM. J. PALMER,

Attest:

WM. WAGNER, *President.*

Secretary.

[CORPORATE SEAL.]

THIS INDENTURE, made this twenty-seventh day of March, A.D. 1880, by and between the Union Pacific Railway Company, party of the first part, the Atchison, Topeka and Santa Fé Railroad Company, the Pueblo and Arkansas Valley Railroad Company, the New Mexico and Southern Pacific Railroad Company, parties of the second part, and the Denver and Rio Grande Railway Company, party of the third part, witnesseth that

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. G.

WHEREAS controversies have arisen between the several parties hereto, or some of them, in relation to the construction of railroads in Colorado and New Mexico, in relation to the traffic upon the lines of the different parties, also in relation to the title to the railroad between Cañon City and Leadville, and the parties hereto desire to settle all controversies between them, or between any two of the parties hereto respectively,—

NOW, THEREFORE, in consideration of the premises and of the covenants hereinafter contained, the parties hereto agree as follows:—

FIRST.—The parties of the second part jointly and severally agree that neither they nor either or any of them will, as long as the party of the third part shall keep the agree-

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. G.

ments on its behalf herein contained, without the consent in writing of the party of the third part, directly or indirectly, construct or promote the construction of any railroad, or voluntarily connect with, or take business from or give business to, any railroad which may be hereafter constructed in Colorado, west of the line of the railroad of the Denver and Rio Grande Railway Company between Denver and El Moro, and that line extended northerly and southerly except a line from Pueblo to any part of the coal-fields near Cañon City (but in no event within two miles of the town plat of Cañon City), for the purpose of doing a coal business and the business incident thereto, and such other business as it shall be required by law to do; and that they will not, without the consent in writing of the party of the third part, directly or indirectly, construct or promote the construction of any railroad, or voluntarily connect with, or take business from or give business to, any railroad which may be hereafter constructed in that part of New Mexico bounded southerly by the parallel of latitude extending through the northerly boundary of the City of Santa Fé and bounded easterly by the crest of the mountain range which divides the waters flowing westward into the Rio Grande from those flowing eastward, but this shall not affect any contract, arrangement, or connection made, or to be made, between the parties of the second part, or either or any of them, and the Atlantic and Pacific Railroad Company, whether it shall be located in New Mexico north or south of said parallel of latitude.

SECOND.— And the party of the third part hereby agrees, to and with the parties of the second part and with each of them, as long as the parties of the second part and each of them shall keep the agreements on their behalf herein contained, not directly or indirectly to construct or promote the construction of any railroad, or voluntarily connect with, or take business from or give business to, any railroad which may be hereafter constructed in Colorado east of the line of the railroad now constructed between Denver and El Moro, and that line extended northerly and southerly, or in New Mexico south of the parallel of latitude seventy-five miles south of the village of Conejos in Colorado, or east of the crest of the mountain range which divides the waters flowing westward into the Rio Grande from those flowing eastward,

provided nothing herein contained shall authorize the party of the third part to build into the Maxwell estate, or prevent the construction of a line by the party of the third part through New Mexico for the purpose of reaching Arizona, provided such line shall not, in New Mexico south of said last-mentioned parallel of latitude, be located east of the one hundred and eighth meridian, or south of the parallel of latitude ninety miles south of the northerly boundary of New Mexico. Neither party shall interfere with or claim title to any track which may be actually constructed or graded by the other party in accordance with this agreement; but if this agreement is broken, ended, or expires by limitation, each party is remitted to its rights under the Act of Congress, approved June 8, 1872, and the Amendatory Acts of March 3, 1875, and of March 3, 1877, and the Act of March 3, 1875, relating to cañons, defiles, and passes, in respect to the construction of railroads. But this shall not permit interference by either party with, or claim of title to, road-bed and track which, at the time this agreement is broken or terminated or expires as aforesaid, may have been constructed or graded by the other party, unless such interference shall be authorized by the Act of Congress of March 3, 1875, in respect to cañons, defiles and passes; but these clauses relating to the interference with, or claims of title to, tracks shall not be so construed as in any way to affect the legal rights of the Atlantic and Pacific Railroad Company.

THIRD.—The party of the third party hereby agrees not to directly or indirectly construct or promote the construction of any parallel or competing railroad from any part of its line or lines of railroad to any point on the line or lines of the parties of the second part. The parties of the second part, and each of them, agree not to, directly or indirectly, construct or promote the construction of a parallel or competing railroad from any part of their line or lines of railroad to Denver, or to any point in Colorado north of their existing lines, or either of them, except as hereinbefore provided, to the coal mine near Cañon City (but this is not to interfere with any east and west line east of five miles east of the line of the party of the third part, and south of the line of the Pueblo and Arkansas Valley Railroad to Pueblo), or to voluntarily connect with such railroad, or give business to

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. Co.

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. G.

or receive business from such railroad when constructed, unless the parties of the first and third parts, or either of them, shall directly or indirectly construct or promote the construction of a railroad in Colorado south of that part of the line of the Union Pacific Railway formerly known as the Kansas Pacific Railway, or connect with such line when constructed; and the party of the first part shall not, directly or indirectly, construct or promote the construction of a parallel or competing railroad from any part of its line or lines to any point in Colorado south of the latitude of Denver, or of that part of the line of the party of the first part formerly known as the Kansas Pacific Railway, or voluntarily connect with, give business to or receive business from, any such road when constructed.

If the party of the first part shall construct or promote the construction of any such railroad in Colorado, south of said Kansas Pacific Railway, or east of the line of the party of the third part between Denver and El Moro, or if the traffic agreement herein contained is broken by the party of the first part, then, and in either of such events, the parties of the second part, or either of them, may build a line of railroad to Denver, anything in this agreement to the contrary notwithstanding; but this agreement, except in respect of the construction of the line to Denver, is to be binding as between the parties of the second and third parts. If the party of the third part breaks the foregoing stipulation as to promoting or constructing of railroads, or the traffic agreement as hereinafter contained, the parties of the second part shall have the right to construct competing railroads, and the rights to the Leadville line hereinafter provided for. If the parties of the second part break the foregoing stipulation, or the stipulation as to the construction of railroads or said traffic agreement, the parties of the first and third parts shall be at liberty to construct lines competing with those of the parties of the second part, in Colorado and New Mexico. Notwithstanding articles first, second, and the foregoing provisions of article third, the parties of the first, second, and third parts shall be allowed to build such spurs or small branch-roads for coal, stone, timber, or mineral as they may consider desirable for the development of the resources locally tributary to their respective lines, provided

that no such line shall be in competition with or interfere with the traffic of the other party, or, without its consent in writing, exceed ten miles in length.

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. G.

FOURTH.—All traffic to and from the Missouri River, and all competitive local traffic, both passenger and freight, to and from the territory south and west of Denver, reached and covered by the Denver and Rio Grande Railway Company or the Denver, South Park, and Pacific Railroad Company, and lines controlled or constructed or to be constructed by them or either of them, or promoted by and connecting with them or either of them, shall be pooled between the Union Pacific Railway Company and the Atchison, Topeka and Santa Fé Railroad Company, one-half to each. Also all traffic to and from the Missouri River and to and from competitive local points, both freight and passenger, to and from Denver, shall be divided, three-quarters to the Union Pacific Railway Company, and one-quarter to the Atchison, Topeka and Santa Fé Railroad Company, each company in each case to deduct forty per cent. as cost of operating; it being understood and agreed that all local business, both passenger and freight, to and from the Denver, South Park, and Pacific Railroad Company, east of and including Weston Station, shall be treated as Denver business, and divided accordingly. It is also understood that the party of the third part is not to do any through business to and from Trinidad, or to and from New Mexico *via* Trinidad or El Moro.

FIFTH.—That as long as the parties of the second part and each of them shall keep the agreements on their behalf herein contained, one-half of all the traffic, both passenger and freight, originating in Colorado and also in New Mexico at points as far south as the party of the third part is authorized to build under Art. 2 of this agreement, and coming or delivered to the party of third part for transportation over any of the lines of the party of the third part, constructed or to be constructed, or promoted by it, or coming or delivered to it for transportation from lines connecting with it, and destined for points east of the line between Denver and El Moro, and said line extended northerly and southerly, shall be delivered at South Pueblo for transportation over the railroads controlled by the parties of the second

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A V.,
N. M. & S. P. and
D. & R. G.

part, and the other half at Denver, for transportation over the railroads controlled by the party of the first part, as far as the party of the third part can legally control such traffic. It is further agreed that as to all traffic, both freight and passenger, interchanged between the party of the third part and the other parties hereto, to and from Denver *via* South Pueblo, and from and to South Pueblo *via* Denver, the party of the third part shall be entitled to and shall prorate with the other parties at the rate of one mile and a half to one, that is to say, shall be entitled to and shall share in the distribution of such total fare and freight moneys for each mile of actual haul done by the Denver and Rio Grande Railway Company, as if the same were carried by it one mile and a half, but the allowance of extra mileage shall in no event exceed local rates, and, in case of any more favorable pro rata being given to the party of the first part, the same shall be given to the party of the second part. It is further agreed that the rates between South Pueblo and Leadville, and between South Pueblo and all other points west of Pueblo, shall be as low as between the same points and Denver, under any and all circumstances. And the party of the third part shall not discriminate against the parties of the second part, in respect of cars or other facilities for transfer of freight and passengers.

SIXTH.—In order to enable the party of the third part to carry out its obligations under the above article and for its protection, it is further agreed that the parties of the second part shall, as long as the party of the third part shall keep the agreements on its behalf herein contained, deliver at South Pueblo for transportation any traffic, passenger or freight, destined from points east of the said line of the party of the third part to points on its line constructed or to be constructed or promoted by it, or connecting with it in Colorado, and also in New Mexico to points on its line as far south as the party of the third part is authorized to build under article second of this agreement, and shall not deliver to, or cause the same to be transported over, or voluntarily receive the same from any other line or railroad in the territory named, than that of the party of the third part, so far as the said parties of the second part can legally control the same. And that any agreement or understanding of the

parties of the first and second parts with each other or of both or either or any of them with any competing railroad for a division of business or territory or earnings that might divert business which would otherwise under this agreement pass over the lines of the party of the third part shall provide for securing to the party of the third part a proportionate benefit on the mileage basis, stated in article five, for not less than one-half of the Southern and Western business and one-fourth of the Denver business, as provided in article four of this agreement; provided that this shall not prevent the party of the second part from making any agreement or understanding with the Atlantic and Pacific Railroad Company without incurring any liability to the party of the first or third parts.

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. G.

SEVENTH.—WHEREAS disputes have arisen in the Federal Courts, between the Denver and Rio Grande Railway Company and the Pueblo and Arkansas Valley Railroad Company, successor of the Cañon City and San Juan Railway Company and the Pueblo and Arkansas Valley Railroad Company, subsequently consolidated under the name of the Pueblo and Arkansas Valley Railroad Company, as to the line or lines of railroad between Cañon City and Leadville through the Grand Cañon of the Arkansas to Leadville;

AND WHEREAS the Cañon City and San Juan Railway Company and the Pueblo and Arkansas Valley Railroad Company have constructed wholly or in part a line of railway between Cañon City and Leadville upon a right of way that is claimed by the Denver and Rio Grande Railway Company,—

Now, to compromise and settle said disputes and litigations, it is agreed between the Denver and Rio Grande Railway Company, party of the third part, and the said Pueblo and Arkansas Valley Railroad Company, one of the parties of the second part, as follows:

That in consideration of the payment of fourteen hundred thousand dollars, and the further consideration of the rights in the railroad from Cañon City to Leadville in this agreement hereinafter secured to the Pueblo and Arkansas Valley Railroad Company, the said line of railway, constructed as aforesaid by the Cañon City and San Juan Railway Company and the Pueblo and Arkansas Valley Railroad Company be-

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. G.

tween Cañon City and Leadville, is recognized and admitted to be, and it is agreed that it shall and does become, and shall be decreed to be, the property of the Denver and Rio Grande Railway Company for the entire distance between Cañon City and Leadville; and the Pueblo and Arkansas Valley Railroad Company and the Atchison, Topeka and Santa Fé Railroad Company hereby severally agree with the Denver and Rio Grande Railway Company that the said line of railway between Cañon City and Leadville is free from any encumbrances made or suffered by them or either of them respectively.

AND, in consideration of the premises, the party of the third part is hereby granted the right to purchase all such rails, for about seventy miles of road, and all plates, bolts, ties, bridge timber, and other material as the Pueblo and Arkansas Valley Railroad Company has heretofore provided or acquired for use in the construction and completion of a railway on or along the line aforesaid, and which it has on hand unused at Pueblo, and points west thereof, at such fair market price or prices as may hereafter be agreed upon between the said Pueblo and Arkansas Valley Railroad Company and the party of the third part hereto, or, failing to agree, as Hugh Riddle, Esq., as Arbiter, shall fix and determine; but such price or prices shall not exceed the fair market value thereof on the day of the date hereof.

AND the party of the third part, in consideration of the premises, agrees that, as and when it shall purchase any or all of the material aforesaid, it shall and will pay therefor, upon or before delivery, such fair market price as may be agreed upon or fixed by the Arbiter, in accordance herewith.

If the provisions hereinbefore contained in the second and fifth articles of this agreement in relation to the construction of railroads and traffic, or either or any part of them, shall be violated by the party of the third part, then the rights hereby recognized and confirmed to the said party of the third part in and to the line of railroad between Cañon City and Leadville shall not prejudice the right of the Pueblo and Arkansas Valley Railroad Company, its successors, lessees, or assigns, to build at its election a railway between Cañon City and Leadville, under the Act of Congress of

March 3, 1875, relating to the use of cañons, defiles, and passes by railroad companies. And in case of any breach by the party of the third part of any of the provisions of the second or fifth articles of this agreement in the manner provided in this article, the Pueblo and Arkansas Valley Railroad Company, or its successors, lessees, or assigns, shall, instead of building a line to Leadville, have the right to use the line of railroad of the party of the third part from Cañon City to Leadville, in common with the party of the third part. The regulations of such use and terms as to compensation, in case the parties fail to agree, shall be fixed by the United States Circuit Court for the District of Colorado in the suit or suits in which decrees are to be entered, establishing the rights of the parties in respect of the railroad between Cañon City and Leadville; or the Pueblo and Arkansas Valley Railroad Company, its lessees or assigns, may exercise its rights to build a line from Cañon City to Leadville, under the said Act of Congress of March 3, 1875, and in either case may extend its road to any other point in Colorado; but, until such violation by the said party of the third part, the Pueblo and Arkansas Valley Railroad Company agrees not to extend its road in Colorado west of Pueblo except to the coal-fields near Cañon City for the purpose in that behalf hereinbefore provided. It is expressly agreed by and between the Pueblo and Arkansas Valley Railroad Company and the party of the third part that, in case the second and fifth articles of this agreement, or either of them, or any provisions contained in them, shall be violated in the manner aforesaid by the party of the third part, it is a part of the consideration upon which this agreement, recognizing the right of the party of the third part, and transferring the right of the Pueblo and Arkansas Valley Railroad Company to the party of the third part, has been made, that the Pueblo and Arkansas Valley Railroad Company, or its successors, lessees, or assigns, shall have the right, upon such violation, to use in the manner aforesaid the track of the party of the third part from Cañon City to Leadville, irrespective of any question as to the validity of the contracts in relation to building or traffic. And the rights provided for in this agreement are to be secured in the decrees of Court, under which the right to the road between

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. G.

Agreement between
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. G.

Cañon City and Leadville is to be recognized and established in the party of the third part.

EIGHTH.—It is understood that either or any of the several railroad companies, parties to this agreement, may maintain an action at law or in equity against either, any, or all of the other railroad companies, parties to this agreement, to protect any rights secured by this agreement, or to recover damages for the violation of any stipulation in this agreement affecting its interests, and that no objection shall be had or taken to any such action by reason of the non-joinder of parties as plaintiffs, and all clauses in this agreement contained are to be so construed as to secure this right. It is further agreed between the parties, that in case a disagreement shall arise between any two of them as to any act or omission to act under this agreement, that at the request of either of such parties an Arbitrator shall be appointed by each of the parties so disagreeing, and a third Arbitrator shall be chosen by the two so appointed; and the decision of said Arbitrators or a majority of them, given after a hearing of which both parties shall be duly notified, and at which they shall have had an opportunity to be heard, shall be final and binding upon both parties as to the matter in issue between them. And, in case of such arbitration, each party to this agreement hereby covenants for itself, its successors and assigns, with each of the other parties to this agreement, and its successors and assigns, that it will forthwith, upon the publication of any decision as aforesaid, comply with and perform the requirements thereof; and, further, will pay any sum or sums of money which it may be required to pay by such award.

NINTH.—The party of the third part agrees to erect and perpetually maintain and use a railroad station for the transaction of general business on the line of railroad from Cañon City to Leadville at the town of Cleora, at the junction of the Arkansas and South Arkansas Rivers; and, in consideration thereof, the Pueblo and Arkansas Valley Railroad Company agrees to convey to the party of the third part all the real estate owned by the Pueblo and Arkansas Valley Railroad Company at Cleora aforesaid, and acquired by it from Alden Speare, and it further agrees to cause to be conveyed to such party as may be named by said party of the

third part all the real estate at said town of Cleora acquired by said Alden Speare from Joseph E. Gorrell and B. F. Rockafellow, and not heretofore sold or agreed to be sold by said Alden Speare.

Agreement
U. P. R'y
Atchison C.
P. & A. V.
N. M. & S.
D. & R. G.

TENTH.—Nothing in this agreement contained shall be held to imply that the party of the third part undertakes any responsibility whatever except for its own acts, and it is understood that it is not to be held responsible by either or any of the parties of the second part for any act or omission of the party of the first part, or by the party of the first part for any act or omission of the parties of the second part, or either or any of them; and the obligations of the party of the third part to the Denver, South Park, and Pacific Railroad Company, under an agreement heretofore made between them, a copy of which is annexed, are hereby recognized by the other parties hereto and each of them; and nothing herein contained shall require the said party of the third part to violate its said agreement with the said Denver, South Park, and Pacific Railroad Company.

ELEVENTH.—This agreement shall continue in force ten years from the date hereof, except as hereinbefore expressly provided.

IN WITNESS WHEREOF, the parties hereto have caused their corporate seals to be hereto affixed and their corporate names to be hereto subscribed this twenty-seventh day of March, A.D. 1880.

ATCHISON, TOPEKA, AND SANTA FE RAILROAD CO.

By THOS. NICKERSON,

Attest: *President.*

GEO. L. GOODWIN,

Assistant Secretary.

CORPORATE SEAL]

UNION PACIFIC RAILWAY CO.

By SIDNEY DILLON,

Attest: *President*

A. H. CALEF,

Assistant Secretary.

CORPORATE SEAL]

Agreement between THE NEW MEXICO & SOUTHERN PACIFIC RAILROAD CO.
U. P. R'y Co.,
Atchison Co.,
P. & A. V.,
N. M. & S. P. and
D. & R. G.

By THOS. NICKERSON,
President.

Attest :
GEO. L. GOODWIN,
Treasurer.

[CORPORATE SEAL]

THE DENVER & RIO GRANDE RAILWAY CO.

By WM. J. PALMER,
President.

Attest :
WM. WAGNER,
Secretary.

[CORPORATE SEAL]

THE PUEBLO & ARKANSAS VALLEY RAILROAD CO.

By THOS. NICKERSON,
Managing Director.

Attest :
S. W. REYNOLDS,
Assistant Secretary.

[CORPORATE SEAL]

Approved.
JAY GOULD. [SEAL.]

Agreement as to
simultaneous
execution and delivery
of all the foregoing
agreements and
decrees.

THIS AGREEMENT, made this twenty-seventh day of March, A.D. one thousand eight hundred and eighty, by and between the UNION PACIFIC RAILWAY COMPANY, party of the first part, the ATCHISON, TOPEKA AND SANTA FÉ RAILROAD COMPANY, THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, THE NEW MEXICO AND SOUTHERN PACIFIC RAILROAD COMPANY, parties of the second part, THE DENVER AND RIO GRANDE RAILWAY COMPANY, party of the third part, and ALDEN SPEARE AND T. JEFFERSON COOLIDGE, parties of the fourth part, and WILLIAM J. PALMER, JAY GOULD, and CHARLES F. WOERISHOFFER, parties of the fifth part,

WITNESSETH that all the contracts and releases bearing even date herewith, relating to the line of railway between Cañon City and Leadville in the State of Colorado, and to a lease of the Denver and Rio Grande Railway Company to the Atchison, Topeka and Santa Fé Railroad Company, to the construction of railways in the States of Kansas and

Colorado and in the Territory of New Mexico, and to certain traffic arrangements to which the Union Pacific Railway Company, the Denver and Rio Grande Railway Company, the Atchison, Topeka and Santa Fé Railroad Company, the Pueblo and Arkansas Valley Railroad Company, the New Mexico and Southern Pacific Railroad Company, or any or either of them, are parties, shall take effect simultaneously, and no one of said instruments shall be valid until all are executed and delivered, and until two certain decrees, drafts of which are annexed hereto, are signed and delivered to the parties by Judge Hallet, McCrary, or Miller, and until the sum of one million four hundred thousand dollars be paid by or on behalf of the Denver and Rio Grande Railway Company to the Pueblo and Arkansas Valley Railroad Company when such contracts and releases shall become effective and binding. This stipulation also applies to contracts and releases of even date herewith, incident to the matters hereinbefore set forth, to which Alden Speare, T. Jefferson Coolidge, and William J. Palmer, or any or either of them, are parties.

Agreement as to simultaneous execution and delivery of all the foregoing agreements and decrees.

IN WITNESS WHEREOF, the said parties hereto have executed these presents the day and year first above written.

C. F. WOERISHOFFER. [SEAL]

UNION PACIFIC RAILWAY CO.

By SIDNEY DILLON,

Attest: *President.*

A. H. CALEF,

[CORPORATE SEAL] *Assistant Secretary.*

THE DENVER & RIO GRANDE RAILWAY CO.

By WM. J. PALMER,

Attest: *President.*

WM. WAGNER,

[CORPORATE SEAL] *Secretary.*

WM. J. PALMER. [SEAL]

JAY GOULD. [SEAL]

ATCHISON, TOPEKA & SANTA FÉ RAILROAD CO.

By THOS. NICKERSON,

Attest: *President.*

GEO. L. GOODWIN,

[CORPORATE SEAL] *Assistant Secretary.*

THE PUEBLO & ARKANSAS VALLEY RAILROAD CO.

By THOS. NICKERSON,

Attest : *Managing Director.*

S. W. REYNOLDS,

[CORPORATE SEAL] *Assistant Secretary.*

THE NEW MEXICO & SOUTHERN PACIFIC RAILROAD CO.

By THOS. NICKERSON,

Attest : *President.*

GEO. L. GOODWIN,

[CORPORATE SEAL] *Treasurer.*

T. JEFFERSON COOLIDGE. [SEAL]

ALDEN SPEARE. [SEAL]

Agreement
between U. P. and
Atchison Cos.

WHEREAS controversies have arisen between the UNION PACIFIC RAILWAY COMPANY, the party of the first part, and the ATCHISON, TOPEKA AND SANTA FÉ RAILROAD COMPANY, the party of the second part, as to the construction of railroads in Kansas south of the line of the party of the first part, extending from Missouri River to Denver, and north of the line of the party of the second part, from Missouri River to Pueblo, and said parties desire to settle all such controversies,—

NOW, THEREFORE, in consideration of the premises and of the covenants hereinafter contained, the said parties hereby severally agree each with the other as follows :—

THE UNION PACIFIC RAILWAY COMPANY HEREBY AGREES:

FIRST.—That the road now constructed between Lawrence and Carbondale shall not be extended beyond six or eight miles, to the coal fields near Carbondale.

SECOND.—That the railroad now extending from Salina to McPherson shall not be extended beyond McPherson.

THIRD.—That the projected line from Burlingame to Manhattan shall be constructed, and at joint cost; and the parties hereto are to have a common interest in the property and a joint control of it when constructed.

FOURTH.—That it will not construct or promote the construction of any railroad south of its said line in Kansas

without the consent of the party of the second part, but will use all lawful means to prevent such construction without such consent.

Agreement
between U. P. and
Atchison Cos.

THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY
HEREBY AGREES:

FIRST.—That it will promote the construction of the projected railroad from Burlingame to Manhattan, upon the terms hereinbefore set forth, and upon no other.

SECOND.—That it will sell and convey, or cause to be sold or conveyed, or demised in such form as counsel may advise, the railroad now owned by it north of Manhattan to the party of the first part at cost and interest, the cost to include all expenses incurred in obtaining the title to the same.

THIRD.—That it will not construct or promote the construction of any railroad north of its said line in Kansas, except from McPherson through Lyons to main line, without the consent in writing of the party of the first part, but will use all lawful means to prevent such construction without such consent.

IN WITNESS WHEREOF, the parties hereto have caused their corporate seals to be hereto affixed, and their corporate names to be hereto subscribed by their respective Presidents, this twenty-seventh day of March, A.D. eighteen hundred and eighty, March 27, 1880.

ATCHISON, TOPEKA & SANTA FE RAILROAD CO.

By THOS. NICKERSON,

Attest:

President.

GEO. L. GOODWIN,

[CORPORATE SEAL]

Assistant Secretary.

UNION PACIFIC RAILWAY CO.

By SIDNEY DILLON,

[CORPORATE SEAL]

President.

That the Missouri Pacific Railroad Company shall not extend its line beyond Ottawa or Leroy, or promote the construction of any extension beyond those points.

Agreement of
Jay Gould as to
M. P. R. R. Co.

JAY GOULD, [SEAL]

President.

IN THE CIRCUIT COURT OF THE UNITED STATES
FOR THE DISTRICT OF COLORADO.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY	}	<i>Original Bill, Cross Bill, and Supplemental Bill.</i>
<i>vs.</i> THE DENVER AND RIO GRANDE RAIL- WAY COMPANY.		
THE DENVER AND RIO GRANDE RAIL- WAY COMPANY	}	
<i>vs.</i> ALLING AND OTHERS.		
THE DENVER AND RIO GRANDE RAIL- WAY COMPANY	}	<i>Original Bill and Cross-Bill.</i>
<i>vs.</i> THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.		

Supplemental and
cross bill of D. & R. G.

And now comes the said Denver and Rio Grande Rail-
way Company and, by leave of Court first had and obtained,
brings its supplemental and cross bill in these suits against
the other parties heretofore parties to these suits, and
against the Atchison, Topeka and Santa Fé Railroad Com-
pany, and Isaac T. Burr, George B. Wilbur, and Alden
Speare, as Trustees, and by way of supplement complains of
the defendants and avers as follows:

FIRST.—It avers that the said Atchison, Topeka and
Santa Fé Railroad Company was, at the time of the com-
mencement of these suits, and has ever since been, and now
is, a corporation created and organized under the laws of the
State of Kansas, having its principal office at Topeka in
said State, and was, and is, a citizen of the State of Kansas,
and that the said Isaac T. Burr, George B. Wilbur, and
Alden Speare were, at the time of the commencement of
such suits, and have ever since been, and now are, citizens
of the State of Massachusetts, residing in Newton in said
State.

SECOND.—That since the commencement of these suits,
and since the decree therein of the second day of January,

1880, your orator, and the parties defendant respectively, pending cross appeals from said decree, have entered into an agreement whereby the rights and interests of the respective parties of, in, and to the line of and for a railway from a point at or near the depot of the Denver and Rio Grande Railway at Cañon City up the valley of the Arkansas, through the Grand Cañon thereof, to a point at or near the mouth of the South Arkansas River, thence up the Valley of the Main Arkansas River to Leadville, as well that part thereof located on private lands as that part thereof located on public lands, including the railway constructed or partly constructed thereon, the depot grounds, rights of way and things appurtenant, have been fixed and adjusted between the parties claiming any rights or interests therein and thereto; that a copy of the agreement entered into in respect thereto is hereto annexed, marked A, and your orator begs leave to refer thereto, as if the same were fully set forth and incorporated herein; and your orator avers that by such agreement the present and future rights and interests of said respective parties of, in, and to said line of railway, are fully defined and established.

Supplemental and
cross bill of D. & R. G.

THIRD.—That the said defendant, the Atchison, Topeka and Santa Fé Railroad Company, has heretofore claimed some interest in the line of railway between said points, but your orator alleges that the said Atchison, Topeka and Santa Fé Railroad Company has executed the said agreement, a copy of which is hereto annexed, as by reference thereto will appear.

FOURTH.—That the defendants, Isaac T. Burr, George B. Wilbur, and Alden Speare, as Trustees under a certain deed of trust or mortgage made and executed by the said Pueblo and Arkansas Valley Railroad Company to them, bearing date the first day of October, 1878, have heretofore claimed to have an interest in or lien upon a railway between the points aforesaid; but your orator shows unto your Honors that said deed of trust was made pending these suits, and that no bonds were ever issued under said deed of trust for or on account of the railway hereinbefore described, or any part thereof, or of the outlays and expenses of said Pueblo and Arkansas Valley Railroad Company, or the Cañon City and San Juan Railway Company, made and incurred in

Supplemental and
cross bill of D. & R. G.

locating, grading, or constructing the same, or otherwise howsoever, and that the consideration in said agreement mentioned is amply sufficient to enable the said defendants to pay off and liquidate all and all manner of liability incurred in locating, grading, and constructing the same. And your orator craves leave to refer to its bills of complaint and cross-bills in the suits above entitled, and incorporates the same in this, its supplemental and cross bill, as fully as if herein repeated at length, and avers that as against your orator the lien (if any) of said mortgage or deed of trust has not attached to said line of railway or any part thereof.

Wherefore, your orator makes the said Atchison, Topeka and Santa Fé Railroad Company and the said Isaac T. Burr, George B. Wilbur, and Alden Speare, parties defendant to this, its supplemental and cross bill of complaint, and prays that this Honorable Court will adjudge and decree that the rights, titles, estates, and interests of the respective parties are as fixed and established in and by the said agreement so entered into between them as aforesaid, and not otherwise, and that the rights of said defendants, the Atchison, Topeka and Santa Fé Railroad Company, and of Isaac T. Burr, George B. Wilbur, and Alden Speare, as Trustees under said deed of trust, have not attached to said line of railway, or any part thereof, and that the Court will decree that each party to this suit shall pay its own costs and expenses therein, and that the costs of the Commissioner heretofore appointed in this suit shall be equally divided between the Pueblo and Arkansas Valley Railroad Company and the Denver and Rio Grande Railway Company, and that your orator may have such further and other order, judgment, or decree as may be proper.

And your orator, as in duty bound, will ever pray, etc.
etc.

THE DENVER & RIO GRANDE RAILWAY CO.

By WM. J. PALMER,

Attest :

President.

WM. WAGNER,

[CORPORATE SEAL]

Secretary.

THIS INDENTURE, made this twenty-seventh day of March, A. D. one thousand eight hundred and eighty, by and between the Atchison, Topeka and Santa Fé Railroad Company, the Pueblo and Arkansas Valley Railroad Company, the New Mexico and Southern Pacific Railroad Company, parties of the first part, and the Denver and Rio Grande Railway Company, party of the second part, WITNESSETH that

Agreement of
Atchison Co.,
P. & A. V., and
N. M. & S. P. with
the D. & R. G.
March 27, 1880.

WHEREAS controversies have arisen between the several parties hereto or some of them, in relation to the title to the railroad between Cañon City and Leadville, and in respect to other matters, and the parties hereto desire to settle controversies between them or between any two parties hereto respectively,—

NOW, THEREFORE, in consideration of the premises and of the covenants and agreements hereafter contained, the parties hereto agree as follows:—

FIRST.—That the decrees heretofore, to wit, on the second day of January, 1880, entered in the Circuit Court of the United States for the District of Colorado, in cases to which the parties to this agreement or any of them were parties, and relating to the controversies between such parties or any of them, be forthwith vacated and set aside.

SECOND.—That, upon the payment of one million four hundred thousand dollars by or on behalf of the Denver and Rio Grande Railway Company to the Pueblo and Arkansas Valley Railroad Company, the entire line of railway mentioned and described in the pleadings in the said causes, and particularly in causes Nos. 154, 155, and 186, extending from Cañon City to Leadville, is, and is to be, the absolute property, throughout the whole extent thereof, from Cañon City to Leadville, of the party of the second part hereto, as against the Cañon City and San Juan Railway Company, and the Pueblo and Arkansas Valley Railroad Company, and the Atchison, Topeka and Santa Fé Railroad Company, and each of them, free and clear of any liens of any kind created or suffered by either of the said companies, and such property in the said railway line in the party of the second part is, and is to be, prior to any rights in favor of the Trustees in the railway mortgage executed by the Pueblo and Arkansas Valley Railroad Company to Isaac T. Burr, George B. Wilbur, and Alden Speare, Trustees, which said mortgage

Agreement of
Atchison Co.,
P. & A. V. and
N. M. & S. P. with
the D. & R. G.

is dated the first day of October, 1878, the lien of which is not to exist, or to attach to the said line of railway from Cañon City to Leadville, or any part thereof; and the Denver and Rio Grande Railway Company, upon payment of the said one million four hundred thousand dollars, are entitled to the immediate possession of the entire line of said railway.

THIRD.—That nothing hereinbefore contained shall prejudice the right of the Pueblo and Arkansas Valley Railroad Company to build another railroad distinct from that already built, or partly built, between Cañon City and Leadville, through the Grand Cañon of the Arkansas, under the Act of Congress of March 3, 1875, relating to the use of cañons, defiles, and passes by railroad companies, but that it is not to exercise such right until the lapse of ten years, or until the happening of one of the events hereinafter mentioned, upon the happening of which it has the right to use the present line as hereinafter set forth, whichever may first take place. And such right to build may be exercised under the direction of a Commissioner to be appointed under the decree or otherwise.

After the expiration of ten years, or on the happening of one of said events, whichever may first take place, the Pueblo and Arkansas Valley Railroad Company is to be no longer restrained in the exercise of such right to build as aforesaid, but may proceed to do so, and to exercise all rights which the Act of March 3, 1875, relating to cañons, defiles, and passes, may authorize, irrespective of any of the provisions of this agreement, and as if this agreement had never been entered into. But this shall not give any rights under any decree to be vacated by or under subdivision first hereof.

FOURTH.—If the Denver and Rio Grande Railway Company shall within ten years, without the consent in writing of the Pueblo and Arkansas Valley Railroad Company, or its successors or assigns, directly or indirectly, construct or promote the construction of any railroad, or, except as required by law, connect with or take business from or give business to any railroad which may be hereafter constructed in Colorado east of the line of the railroad now constructed between Denver and El Moro, and that line extended

northerly and southerly, or in that part of New Mexico south of the parallel of latitude seventy-five miles south of the village of Conejos in Colorado, or east of the crest of the mountain range which divides the waters flowing westward into the Rio Grande from those flowing eastward, or within the boundaries of the Maxwell estate, *otherwise* than a railroad through New Mexico for the purpose of reaching Arizona, which shall not in New Mexico, south of said last-mentioned parallel of latitude, be located east of the one hundred and eighth meridian, or south of the parallel of latitude ninety miles south of the northern boundary of New Mexico, or *otherwise* than such spurs or small branch-roads for coal, stone, timber, or mineral, as it may consider desirable for the development of the resources locally tributary to its lines, which such spur or branch-lines shall not be in competition with or interfere with the traffic of the parties of the first part, or, without their consent in writing, exceed ten miles in length.

Agreement of
Atchison Co.,
P. & A. V. and
N. M. & S. P. with
the D. & R. G.

At a time when the Atchison, Topeka and Santa Fé Railroad Company, the Pueblo and Arkansas Valley Railroad Company, and the New Mexico and Southern Pacific Railroad Company shall not, nor shall either of them, without the consent in writing of the said Denver and Rio Grande Railway Company, have directly or indirectly constructed or promoted the construction of any railroad in Colorado west of the line of the railroad of the Denver and Rio Grande Railway Company between Denver and El Moro, and that line extended northerly and southerly, except a line from Pueblo, to any part of the coal fields near Cañon City, but in no event within two miles of the town plat of Cañon City, for the purpose of doing a coal business, and business incident thereto, and such other business as it shall be required by law to do, or directly or indirectly constructed or promoted the construction of any railroad in that part of New Mexico bounded southerly by the parallel of latitude extending through the northerly boundary of the City of Santa Fe, and bounded easterly by the crest of the mountain range which divides the waters flowing westward into the Rio Grande from those flowing eastward; it being, however, understood that this does not include any contract, arrangement, or connection made or to be made by the said Atchi-

Agreement of
Atchison Co.,
P. & A. V. and
N. M. & S. P. with
the D. & R. G.

son, Topeka and Santa Fé Railroad Company, the Pueblo and Arkansas Valley Railroad Company, and the New Mexico and Southern Pacific Railroad Company, or either or any of them, with the Atlantic and Pacific Railroad Company, whether it shall be located in New Mexico north or south of said parallel of latitude, *or* the construction of such spurs or small branch-roads for the coal, stone, timber, or mineral as they may consider desirable for the development of the resources locally tributary to their lines, which said spurs or branch-lines shall not be in competition with or interfere with the traffic of the party of the second part, or, without its consent in writing, exceed ten miles in length, *or* the construction of a line of railroad to Denver, if the Union Pacific Railway Company shall have constructed or promoted the construction of any parallel or competing railroad in Colorado south of the Kansas Pacific Railway, or east of the line of the party of the third part, between Denver and El Moro, or if the traffic agreement this day entered into with the Union Pacific Railway Company shall have been broken by the Union Pacific Railway Company,

OR IF the said Denver and Rio Grande Railway Company, at any time during the ten years from the day of the date hereof, shall fail to give or deliver to the Pueblo and Arkansas Valley Railroad Company, its successors, assigns, or lessees, at South Pueblo for transportation, one-half of all the traffic, both passenger and freight, originating in Colorado, and also in New Mexico, at points as far south as the Denver and Rio Grande Railway Company is authorized to build under its agreements, and coming or delivered to the Denver and Rio Grande Railway Company for transportation over any of the lines of the Denver and Rio Grande Railway Company constructed or to be constructed or promoted by it, or coming or delivered to it for transportation from lines connecting with it, and destined for points east of the line between Denver and El Moro, and that line extended northerly and southerly, as far as the Denver and Rio Grande Railway Company can legally control such traffic, or shall intentionally discriminate against the parties of the first part, or either of them, in respect of cars or other facilities for transfer of freight or passengers, or shall charge higher rates between South Pueblo and any points on its

line west of Pueblo than shall be charged between the same points and Denver, or if the party of the second part shall directly or indirectly construct or promote the construction of any railroad from any part of its line or lines of railroad in Colorado, parallel to or competing with the part of the line of the Pueblo and Arkansas Valley Railroad Company in Colorado south of El Moro,

Agreement of
Atchison Co.,
P. & A. V. and
N. M. & S. P. with
the D. & R. G.

At a time when the Atchison, Topeka and Santa Fé Railroad Company, the Pueblo and Arkansas Valley Railroad Company, and the New Mexico and Southern Pacific Railroad Company shall not, nor shall either of them, without the consent in writing of the said Denver and Rio Grande Railway Company, have directly or indirectly constructed or promoted the construction of any railroad in Colorado west of the line of the railroad of the Denver and Rio Grande Railway Company between Denver and El Moro, and that line extended northerly and southerly, except a line from Pueblo, to any part of the coal fields near Cañon City, but in no event within two miles of the town plat of Cañon City, for the purpose of doing a coal business, and business incident thereto, and such other business as it shall be required by law to do, or directly or indirectly constructed or promoted the construction of any railroad in that part of New Mexico bounded southerly by the parallel of latitude extending through the northerly boundary of the City of Santa Fé, and bounded easterly by the crest of the mountain range which divides the waters flowing westward into the Rio Grande from those flowing eastward; it being, however, understood that this does not include any contract, arrangement, or connection made or to be made by the said Atchison, Topeka and Santa Fé Railroad Company, the Pueblo and Arkansas Valley Railroad Company, and the New Mexico and Southern Pacific Railroad Company, or either or any of them, with the Atlantic and Pacific Railroad Company, whether it shall be located in New Mexico north or south of said parallel of latitude, or the construction of such spurs or small branch-roads for the coal, stone, timber, or mineral as they may consider desirable for the development of the resources locally tributary to their lines, which said spurs or branch-lines shall not be in competition with or interfere with the traffic of the party of the second part, or,

Agreement of
Atchison Co.,
P. & A. V. and
N. M. & S. P. with
the D. & R. G.

without its consent in writing, exceed ten miles in length, or the construction of a line of railroad to Denver, if the Union Pacific Railway Company shall have constructed or promoted the construction of any parallel or competing railroad in Colorado south of the Kansas Pacific Railway, or east of the line of the party of the third part, between Denver and El Moro, or if the traffic agreement this day entered into with the Union Pacific Railway Company shall have been broken by the Union Pacific Railway Company,

THEN it is to be the right of the Pueblo and Arkansas Valley Railroad Company, its lessees, successors, or assigns, as against the party of the second part, its successors and assigns, instead of building the line to Leadville, to use the line of railway from Cañon City to Leadville to be decreed to the party of the second part, in common with said party of the second part upon such regulations as to the use and upon such reasonable and fair compensation by way of annual rental or otherwise to the said party of the second part for such use as shall be determined by the Circuit Court of the United States for the District of Colorado. If the Pueblo and Arkansas Valley Railroad Company, its lessees, successors, or assigns, shall commence the construction of any line of railroad in the Arkansas Valley west of Cañon City, its right under this agreement to use the present line to Leadville in common with the party of the second part forthwith ceases. If the Pueblo and Arkansas Valley Railroad Company, its lessees, successors, or assigns, shall become entitled to use the road to be decreed to the party of the second part in common with said party of the second part, and fails to get the enforcement of that right under decree, the attempt to enforce the right to use such road shall not affect its right to build a line under the said Act of Congress of March 3, 1875, anything hereinbefore contained to the contrary notwithstanding.

FIFTH.—That in case the Pueblo and Arkansas Valley Railroad Company shall claim the right under this agreement either to use the road of the party of the second part between Cañon City and Leadville, or instead thereof to build a line under the said Act of Congress of March 3, 1875, the question whether any such event has happened as to entitle it thereto (if disputed) shall be determined as fol-

lows : namely, by a commission of three experts, to be appointed by the Circuit Court of the United States for the District of Colorado, the decision of which shall be final. If, for any reason, such decision is not or cannot be had, then, second, such determination shall be made by the court. Each party hereby waives any right of appeal from the decision by both judges of the court, whose decision shall be final.

Agreement of
Atchison Co.,
P. & A. V. and
N. M. & S. P. with
the D. & R. G.

SIXTH.— That each party shall pay its own costs and expenses, except the costs of the commissioner heretofore appointed by the court, which are to be equally divided between the Pueblo and Arkansas Valley Railroad Company and the Denver and Rio Grande Railway Company.

IN WITNESS WHEREOF the parties hereto have hereunto caused their corporate seals to be hereunto affixed, and their names to be subscribed hereto, the day and year first above written.

ATCHISON, TOPEKA & SANTA FE RAILROAD CO.

By THOS. NICKERSON,

Attest : *President.*

GEO. L. GOODWIN,

[CORPORATE SEAL]

Assistant Secretary.

THE PUEBLO & ARKANSAS VALLEY RAILROAD CO.

By THOS. NICKERSON,

Attest : *Managing Director.*

S. W. REYNOLDS,

[CORPORATE SEAL]

Assistant Secretary.

THE NEW MEXICO & SOUTHERN PACIFIC RAILROAD CO.

By THOS. NICKERSON,

Attest : *President.*

GEO. L. GOODWIN,

[CORPORATE SEAL]

Treasurer.

THE DENVER & RIO GRANDE RAILWAY CO.

By WM. J. PALMER,

Attest : *President.*

WM. WAGNER,

[CORPORATE SEAL]

Secretary.

IN THE CIRCUIT COURT OF THE UNITED STATES
FOR THE DISTRICT OF COLORADO.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY	}	<i>Original Bill, Cross-Bill, and Supplemental Bill.</i>
<i>vs.</i> THE DENVER AND RIO GRANDE RAIL- WAY COMPANY.		
THE DENVER AND RIO GRANDE RAIL- WAY COMPANY	}	
<i>vs.</i> ALLING AND OTHERS.		
THE DENVER AND RIO GRANDE RAIL- WAY COMPANY	}	<i>Original Bill and Cross-Bill.</i>
<i>vs.</i> THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.		

Decree of U.S.
Circuit Court.

These causes came on to be further heard upon the pleadings herein, and upon the supplemental and cross bill filed by the Denver and Rio Grande Railway Company, and upon the several answers thereto and proofs; and thereupon, and upon consideration thereof, and of the consent and agreement of the parties, it is now accordingly ordered, adjudged, and decreed as follows, namely:—

FIRST.—That the decrees heretofore, to wit, on the second day of January, 1880, entered in this Court in the above entitled causes, be, and the same are, hereby vacated and set aside.

SECOND.—That upon the payment of one million four hundred thousand dollars by or on behalf of the Denver and Rio Grande Railway Company to the Pueblo and Arkansas Valley Railroad Company, the entire line of railway mentioned and described in the pleadings in the above entitled causes, and particularly in causes Nos. 154, 155, and 186, extending from Cañon City to Leadville, is hereby adjudged and decreed to be the absolute property, throughout the whole extent thereof, from Cañon City to Leadville, of the Denver and Rio Grande Railway Company as against the Cañon City and San Juan Railway Company and the Pueblo

and Arkansas Valley Railroad Company and the Atchison, Topeka and Santa Fé Railroad Company, and each of them, free and clear of any liens of any kind created or suffered by either of the said companies; and such property in the said particular railway line in the Denver and Rio Grande Railway Company is, and is to be, prior to any rights in favor of the Trustees in the railway mortgage executed by the Pueblo and Arkansas Valley Railroad Company to Isaac T. Burr, George B. Wilbur, and Alden Speare, Trustees, which said mortgage is dated the first day of October, 1878, the lien of which is hereby decreed not to exist or to attach to the said particular line of railway from Cañon City to Leadville or any part thereof; and the Denver and Rio Grande Railway Company upon payment of the said one million four hundred thousand dollars are entitled to the immediate possession of the entire line of said railway.

Decree of U.S.
Circuit Court.

THIRD.—It is further declared, ordered, adjudged, and decreed that nothing hereinbefore contained shall prejudice the right of the Pueblo and Arkansas Valley Railroad Company to build another railroad distinct from that already built, or partly built, between Cañon City and Leadville, through the Grand Cañon of the Arkansas, under the Act of Congress of March 3, 1875, relating to the use of cañons, defiles, and passes by railroad companies, but that it is not to exercise such right until the lapse of ten years, or until the happening of one of the events hereinafter mentioned, upon the happening of which it has the right to use the present line as hereinafter set forth, whichever may first take place. And such right to build may be exercised under the direction of a commissioner to be appointed under this decree or otherwise.

After the expiration of ten years, or on the happening of one of said events, whichever may first take place, the Pueblo and Arkansas Valley Railroad Company is to be no longer restrained in the exercise of such right to build as aforesaid, but may proceed to do so, and to exercise all rights which the Act of March 3, 1875, relating to cañons, defiles, and passes, may authorize, irrespective of any of the provisions of this decree, and as if this decree had never been entered. But this shall not give any rights under any decree hereby vacated.

Decree of U.S.
Circuit Court.

FOURTH.—In case of the happening of either of the events referred to in subdivision fourth of the agreement, a copy of which is annexed to the supplemental and cross bill in these suits,

IT IS ORDERED, ADJUDGED, AND DECREED then to be the right of the Pueblo and Arkansas Valley Railroad Company, its lessees, successors, or assigns, as against the Denver and Rio Grande Railway Company, its successors and assigns, instead of building the line to Leadville, to use the line of railway from Cañon City to Leadville, herein decreed to the Denver and Rio Grande Railway Company, in common with the last-named company, upon such regulations as to the use, and upon such reasonable and fair compensation by way of annual rental or otherwise, to the Denver and Rio Grande Railway Company for such use as shall be determined by this court. If the Pueblo and Arkansas Valley Railroad Company, its lessees, successors, or assigns, shall commence the construction of any line of railroad in the Arkansas Valley, west of Cañon City, its right under this decree to use the present line to Leadville in common with the Denver and Rio Grande Railway Company forthwith ceases. If the Pueblo and Arkansas Valley Railroad Company, its lessees, successors, or assigns, shall become entitled to use the road herein decreed to the Denver and Rio Grande Railway Company in common with that company, and fails to get the enforcement of that right under this decree, the attempt to enforce the right to use such road shall not affect its right to build a line under the said Act of Congress of March 3, 1875, anything hereinbefore contained to the contrary notwithstanding.

It is further ordered and decreed that in case the Pueblo and Arkansas Valley Railroad Company shall claim the right under this decree either to use the road of the Denver and Rio Grande Railway Company between Cañon City and Leadville, or, instead thereof, to build a line under the said Act of Congress of March 3, 1875, the question whether any such event has happened as to entitle it thereto (if disputed) shall be determined as follows; namely, by a commission of three experts to be appointed by the Court, the decision of which shall be final. If, for any reason, such decision is not or cannot be had, then, second, such determination shall be

made by the Court. Each party hereby waives any right of appeal from the decision by both Judges of the Court, whose decision shall be final.

Decree of U.S.
Circuit Court.

And it is further ordered, adjudged, and decreed that each party shall pay its own costs and expenses, except the costs of the Commissioner heretofore appointed by the Court, which are to be equally divided between the Pueblo and Arkansas Valley Railroad Company and the Denver and Rio Grande Railway Company.

And it is further ordered and decreed that either party is at liberty to apply for further directions or orders.

Each and every party to the original and cross bills and supplemental bills hereby waives all errors in the said causes and decrees, and all right to appeal therefrom; and this decree is hereby consented to by all of the said parties.

SAM. F. MILLER, *Judge*.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY AND JAY GOULD AGREE TOGETHER AS FOLLOWS:—

Agreement of
P. & A. V., Atchison
Co. and Jay Gould.

The said Gould agrees to deliver to said Atchison, Topeka and Santa Fé Railroad Company, at Kansas City, the same number of tons of steel rails which shall have been delivered (not laid in track) by the Atchison, Topeka and Santa Fé Railroad Company or the Pueblo and Arkansas Valley Railroad Company to the Denver and Rio Grande Railway Company, at Pueblo and Cañon City, and along the line of railway between Cañon City and Leadville, under the agreement between the Union Pacific Railway Company, the Atchison, Topeka and Santa Fé Railroad Company, the Pueblo and Arkansas Valley Railroad Company, the New Mexico and Southern Pacific Railroad Company, and the Denver and Rio Grande Railway Company, dated March 27, 1880, and also the like number of tons of spikes, splice joints, and bolts which shall have been delivered by said Atchison, Topeka and Santa Fé Railroad Company or

Agreement of
P. & A. V., Atchison
Co. and Jay Gould.

said Pueblo and Arkansas Valley Railroad Company to said Denver and Rio Grande Railway Company, under said agreement, the rails to be delivered by said Gould to be of equal quality to those delivered to the Denver and Rio Grande Railway Company as aforesaid, but to be fifty pounds steel rails instead of thirty-five pounds steel rails, and the price to be the same price at which the rails, spikes, splice joints, and bolts furnished to the Denver and Rio Grande Railway Company shall have been received and paid for by said company. It is understood that the amount of rails to be delivered by said Gould under the foregoing paragraph of this agreement shall not exceed thirty-five hundred tons.

And the said Gould also agrees to deliver to said Atchison, Topeka and Santa Fé Railroad Company, at Kansas City, such further amount of steel rails of the weight and quality as aforesaid as will at the market price of such rails, taken at the date of this agreement, be equivalent to an allowance of ten dollars per ton on the total weight of rails, splices, bolts, and spikes delivered by him as aforesaid, said allowance being made in respect of cost of transportation from Kansas City.

Two thousand tons of said rails, with a proportionate amount of spikes, splice joints, and bolts, are to be delivered in April, 1880, and the balance in June, 1880.

THE PUEBLO & ARKANSAS VALLEY RAILROAD CO.

By THOS. NICKERSON,

Attest: *Managing Director.*

S. W. REYNOLDS,

[CORPORATE SEAL]

Assistant Secretary.

ATCHISON, TOPEKA & SANTA FE RAILROAD CO.

By THOS. NICKERSON,

Attest: *President.*

GEO. L. GOODWIN,

[CORPORATE SEAL]

Assistant Secretary.

JAY GOULD. [SEAL]

TERMINATION OF TRUST

OF ALDEN SPEARE UNDER SPEARE AND PALMER AGREEMENT
OF OCTOBER 19, 1878.

BOSTON, April 22, 1880. April 22, 1880.

I, Thomas Nickerson, President of the Atchison, Topeka and Santa Fe Railroad Company, hereby certify that Alden Speare has this day transferred to the Atchison Topeka and Santa Fe Railroad Company the eight thousand five hundred and two (8502) shares of the Capital Stock of The Pueblo and Arkansas Valley Railroad Company named in the within trust, which trust is now discharged and cancelled.

See vote of Executive Committee, April 21, 1880.

THOS. NICKERSON,
President.

AGREEMENT OF ATCHISON CO.

TO INDEMNIFY T. JEFFERSON COOLIDGE AGAINST ANY LIABILITIES
ARISING FROM HIS TRANSFER OF SHARES OF THE DENVER
AND RIO GRANDE R'Y CO. TO ALDEN SPEARE.

Agreement of
Atchison Co. to
indemnify T. Jefferson
Coolidge.

KNOW ALL MEN BY THESE PRESENTS, That
WHEREAS, T. Jefferson Coolidge, of Boston, Merchant,
under and by virtue of an agreement bearing date the nine-
teenth day of October, one thousand eight hundred and
seventy-eight, between William J. Palmer, of Colorado, of
the first part and Alden Speare, of Boston, Massachusetts,
of the second part, did receive and now holds forty-two
thousand, five hundred and ten shares of the Denver & Rio
Grande Railway Company, in conformity to the terms of
said agreement for the purposes therein set forth,—a copy
of which agreement is hereto annexed and forms part of
this instrument, and

WHEREAS, said Speare, in making said agreement, acted
in behalf of or in the interest of the Atchison, Topeka &

Agreement of
Atchison Co. to
indemnify T. Jefferson
Coolidge.

Santa Fe Railroad Company, and a question has arisen whether, by the just construction of the terms of said instrument, the said Coolidge has authority now to transfer said shares to said Speare, which transfer has been required of him by said Speare, and

WHEREAS, the said Coolidge has heretofore, at the request of said Speare made (on the ground that it was the duty of said Coolidge under said instrument) and executed an affidavit which has been filed in the Supreme Court of the United States in the suits of the Denver & Rio Grande Railway Company against Ebenezer Alling et al. and the Canon City & San Juan Railway Company against the Denver & Rio Grande Railway Company, for the purpose of aiding in procuring the dismissal of said suits and the vacating of the stipulations filed therein, and

WHEREAS, the said Coolidge has agreed to transfer said shares to said Speare as requested by him upon being fully indemnified for making said transfer as well as for making and filing said affidavit,

NOW, THEREFORE, in consideration of the premises, the said Atchison, Topeka & Santa Fe Railroad Company does hereby covenant and agree that it will well and truly indemnify and save harmless the said Coolidge from all loss, costs, damages, counsel fees or other injuries which he may in any manner sustain by reason of his making said transfer and executing said affidavit as aforesaid.

IN TESTIMONY WHEREOF, the said Corporation has hereto set its seal and caused the same to be signed by Thomas Nickerson its President, thereto duly authorized, this 14th day of February, one thousand eight hundred and seventy-nine.

Feb. 14, 1879.

THE ATCHISON, TOPEKA AND SANTA FE R.R. Co.

By THOS. NICKERSON,

President.

[SEAL]

Attest:

GEORGE L. GOODWIN,

Ass't Sec'y.

APPORTIONMENT

BETWEEN THE

PUEBLO AND ARKANSAS VALLEY R.R. CO.

AND THE

ATCHISON COMPANY

OF THE MONEYS RECEIVED FROM THE

**DENVER AND RIO GRANDE RAILROAD
COMPANY.**

EXTRACT FROM THE RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, HELD AT BOSTON ON APRIL 21, 1880. P. & A. V. Ex. Com.
April 21, 1880.

On motion of Mr. Rotch duly seconded it was

VOTED, That this Company make the following proposal to the Atchison, Topeka and Santa Fe Railroad Co., viz:

That this Co. will pay to the Atchison, Topeka and Santa Fe Railroad Co. the sum of \$101,776.79 as their share of the \$1,400,000 received from the Denver & Rio Grande Ry Co. in settlement, and that the 985 shares of this Company's stock now in the hands of Thos. Nickerson be delivered to the Atchison, Topeka and Santa Fe Railroad Co.

EXTRACT FROM THE RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE ATCHISON COMPANY, HELD AT BOSTON ON APRIL 21, 1880. A. T. & S. F. Ex. Com.
April 21, 1880.

On motion of Mr. Burr and duly seconded,

VOTED that this Company will accept the following proposal of the Pueblo and Arkansas Valley R.R. Co. viz.:

That that Company will pay to this Company the sum of \$101,776.79 as our share of the \$1,400,000 received from

the Denver & Rio Grande Railway Company, and that the nine hundred and eighty-five shares of Pueblo and Arkansas Valley R.R. Co. stock now in the hands of Thomas Nickerson, be delivered to and become the property of this Company.

STATEMENT

OF ABOVE AUTHORIZED SETTLEMENT WITH THE ATCHISON, TOPEKA & SANTA FE RAILROAD CO.

Amount due from the U.S. Gov't for carrying the mails		\$13,254.40
Amount due from H. C. Risley former receiver of the D. & R. G.		14,300.67
Balance of material and supplies due from Ellsworth Recr.	\$99,096.91	
Due by Atchison Co. to D. & R. G.	<u>67,163.23</u>	31,933.68
Expenses incurred in litigation and charged in operating expenses . . .		
Miscellaneous	67,659.48	
Legal	<u>5,778.48</u>	73,437.96
Expended by Atchison Co. on strength of lease continuing		
New Construction	15,333.04	
New Rails and Ties	<u>23,389.51</u>	
Say $\frac{1}{2}$	<u>38,722.55</u>	25,815.04
Equipment notes paid		11,585.06
Old accounts against D. & R. G.	6,142.12	
Less disputed by D. & R. G.	<u>817.14</u>	<u>5,324.98</u>
		175,651.79
Less 985 shares P. & A. V. Stock @ 75 .		<u>73,875.00</u>
		<u>\$101,776.79</u>

CIRCULAR A
OF
**THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY (III).**

THOS. NICKERSON, MANAGING DIRECTOR.

S. W. REYNOLDS, ASST. TREAS.

The Pueblo & Arkansas Valley Railroad Co.

EQUITABLE BUILDING, ROOM 24,

No. 150 DEVONSHIRE STREET.

P. O. BOX 2746.

BOSTON, April 21, 1886.

CIRCULAR "A."

The subscribers under Circulars 42 and 44 are aware that the contest over the Grand Canon has been very costly to this company, and the surrender of this line to the Denver & Rio Grande Railway Co. renders it impossible to deliver all the bonds due the subscribers. The company are anxious to adjust these subscriptions at the earliest day possible, and for this purpose now make the following

PROPOSAL:

The company will, as soon as a President can be elected, deliver to the subscribers, for each \$1,000 in bonds to which they are entitled,

38 per cent. in bonds, and will make a further delivery of bonds to the extent of

34 " " in about four months, or as soon as the road to the coal-fields can be built. This will leave due to the subscribers,

28 " " in bonds at par, for which, instead of delivering bonds, the company propose to pay \$280 in cash.

100 per cent.

If this proposal is accepted, the company will at once call the assessment of 20% to make the stock full paid, and at the same time pay in cash the 28 per cent. As soon as the bonds are delivered, the interest account will be adjusted at 7 per cent. as provided in the circular.

Circular A
of P. & A. V.

The Directors who are large subscribers, having agreed to accept this settlement, recommend it to their associates. The Directors of the Atchison, Topeka & Santa Fe R.R. Co. have also agreed to accept this settlement.

Please answer promptly.

Per order of the Executive Committee,

THOMAS NICKERSON,
Managing Director.

I accept the above proposal.

Name,
Address,

MEMORANDUM OF SETTLEMENT

WITH SUBSCRIBERS UNDER FOREGOING CIRCULAR.

Settlement under
foregoing circular.

MEMO: SETTLEMENT P. AND A. V. R.R. CO. SUBS. CIRCS. 42 & 44

Subscription Cash,	\$1,503,700
80% paid in	1,202,960
20% due from Subscriptions,	<u>\$300,740</u>

Cash due Subscribers under Circular "A"	
dated April 21, 1880—28% of \$1,367,000	
bonds,	\$382,760
Less assessment—20% of \$1,503,700	<u>300,740</u>
Balance due Subscribers—Cash	<u>\$82,020</u>

Interest due subscribers from June 1, 1880 to	
July 1, 1880—on 80% paid in \$1,202,960	
at 7% per annum,	<u>42,103.60</u>
Due Subscribers July 1, 1880,	<u><u>\$124,123.60</u></u>

If the interest account can be arranged as

July 1, 1880 and the bonds to be issued	
to subscribers bearing interest from July	
1, 1880 on the payments of the 38%	
say,	519,460
July 1, 1880 on the payments of the 34%	
say,	<u>464,780</u>

	<u>\$984,240</u>
Cash, 28%	<u>382,760</u>
Due subscribers in bonds and cash,	<u>\$1,367,000</u>

BOSTON, June 9, 1880.

THE FOLLOWING FIRST MORTGAGE BONDS were issued under Circular A to subscribers under Circulars Nos. 42 and 44: Issue of bonds
under Circular A.

July 1, 1880, Nos. 2905 to 3371	\$467,000
Nov. 23, 1880, Nos. 3372 to 3388	517,000
	<hr/> \$984,000

For issues of Capital Stock under Circulars Nos. 42 and 44, see *ante*, pp. 122 and below.

DELIVERY OF CAPITAL STOCK
OF
THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY (III.).

TO SUBSCRIBERS UNDER
CIRCULARS 42 AND 44

OF
ATCHISON COMPANY

EXTRACT FROM THE RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, HELD ON JANUARY 26TH, 1880. P. & A. V. Ex. Com.
Jan. 26, 1880.

On motion of Mr. Cheney seconded by Mr. Sargent, it was unanimously

VOTED, That the President be and he hereby is requested and instructed to issue the Capital Stock due to subscribers under Circulars 42 and 44 in conformity to the written opinion of the Hon. H. W. Paine.

OPINION OF HON. H. W. PAINE ON THE ISSUE OF THE BALANCE OF CAPITAL STOCK DUE TO SUBSCRIBERS UNDER CIRCULARS 42 AND 44. Opinion of Mr. Paine.

As I understand, the P. & A. V. Railroad Company, to raise the money required for the extension of its road, issued proposals in which it offered to pay every subscriber who

Opinion of Mr. Paine. agreed to furnish \$1,100 eleven shares of stock and one bond for a thousand dollars. The subscribers have promptly responded to the call made on them for about 80 per cent. of their subscriptions. The Company does not propose to call for more money at present, and the subscribers ask that the stock may be issued, the Company retaining the bonds as security for the unpaid 20 per cent. The bond is understood to be worth some five times as much.

I see no legal objections to the directors complying with this request.

H. W. PAINE.

Jan 24, 1880.

BOSTON, Jany. 24, 1880.

SETTLEMENT

OF ALL OUTSTANDING CLAIMS BETWEEN THE

DENVER AND RIO GRANDE RY. CO.

AND THE

ATCHISON COMPANY

UP TO MARCH 31, 1884.

MEMORANDUM OF AGREEMENT made this 21st day of March 1884, by and between The Denver & Rio Grande Railway Company represented by Frederick Lovejoy, President and the Atchison, Topeka & Santa Fe Railroad Company represented by A. E. Touzalin Vice President, WITNESSETH as follows:

Final settlement
with D. & R. G.
March 21, 1884.

First: There being a number of outstanding accounts and claims between the two Companies above mentioned which have remained unsettled during the past four years. These claims consist of

No. 1. A claim for rebate on the charges from the Missouri River to Pueblo on material belonging to the Denver & Rio Grande Ry. transported by the Atchison, Topeka & Santa Fe R.R., said total amount of rebate claimed being about one hundred and six thousand (\$106,000.) Dollars.

No. 2. A claim of the Denver & Rio Grande Ry. Co. against the Atchison, Topeka & Santa Fe R.R. Co. for amounts said to be due to the former Company by the latter Company for an additional proportion of percentages amounting to about seventy thousand (\$70,000.) Dollars, under the old Tripartite Pool.

Under the contest for traffic between Denver and Pueblo which has been in existence between the Denver & Rio Grande Ry. Co. and the Denver & New Orleans R.R. Co., the rates between Pueblo and Denver have been reduced to

Final settlement
with D. & R. G.
March 21, 1884.

a nominal figure and the Atchison, Topeka & Santa Fe R.R. Co. has received the benefit of this reduction upon all the traffic passing east and west between Denver and the Missouri River. These additional earnings made by the Atchison Road, by reason of this conflict between the Denver & Rio Grande Ry. and the Denver & New Orleans R.R. has amounted to a considerable sum, and on March 3d 1884 the United States Supreme Court rendered a decision in the case of the Denver & New Orleans R.R. vs. the Atchison Topeka & Santa Fe R.R. under which the Denver & Rio Grande Ry. makes a claim, upon the ground of committee, for a portion, if not all, of these earnings made by the Atchison Topeka & Santa Fe R.R., the Atchison Road, however, not admitting that either in law, in equity, nor even in committee, is the Rio Grande Road entitled to any of these earnings made by the Atchison Road, but admits that the joint interest of these two connecting lines make it desirable that a settlement should be made of the two first claims above mentioned. And the Atchison Road admits that it can well afford to make a comparatively liberal settlement of these claims by reason of the additional earnings that it has received from the Denver traffic at the expense of the Denver & Rio Grande Road chiefly, Therefore

It is agreed between the parties hereto that in settlement of the above claims and in settlement of all other claims or cause of action, that the Rio Grande Road may have against the Atchison Road up to the 31st day of March 1884, that the sum of One Hundred and thirty-five (\$135,000) thousand Dollars, shall be paid by the Atchison Road to the Denver and Rio Grande Ry. in amounts and at times as follows :

On the 25th day of March 1884 the sum of Sixty-five thousand (\$65,000.) Dollars; on the 25th day of April 1884 the sum of Thirty-five thousand (\$35,000.) Dollars; on the 25th day of May 1884 the sum of Thirty-five thousand (\$35,000.) Dollars making a total sum of One Hundred and thirty-five thousand (\$135,000.) Dollars, as above mentioned.

This Memorandum of Agreement to be submitted to the counsel of the two Companies with instructions to execute the necessary papers covering all the conditions herein named.

Final settlement
with D. & R. G.
March 21, 1884.

THE DENVER & RIO GRANDE RAILWAY Co.

By F. LOVEJOY,
President.

ATCHISON, TOPEKA AND SANTA FE R.R. Co.

By A. E. TOUZALIN,
Vice President.

THE FOREGOING AGREEMENT was duly ratified by the directors of the Atchison Company at a meeting held on April 1, 1884, and subsequently ratified by the stockholders of the said Company at a meeting held on April 24, 1884.

Ratification of
foregoing agreement
by A. T. & S. F.
directors,
April 24, 1884.

ACQUISITION
BY
ATCHISON COMPANY
OF THE CAPITAL STOCK OF
THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY.

CIRCULARS Nos. 49 and 51
OF
ATCHISON COMPANY
OFFERING EXCHANGE OF SHARES TO STOCKHOLDERS OF
THE PUEBLO AND ARKANSAS VALLEY R.R. CO.

Circular 49.

THOS. NICKERSON, PRES.

GEO. L. GOODWIN, ASST. TREAS.

OFFICE OF THE

Atchison, Topeka & Santa Fé Railroad Co.

EQUITABLE BUILDING ROOM 24, 150 DEVONSHIRE ST.

P. O. BOX 2746.

CIRCULAR No. 49.

Jan. 7, 1880.

BOSTON, Jan. 7, 1880.

The Executive Committee of this Company have had under consideration, for some time past, the importance of uniting the interests of its various extensions with the main line, as far as their several charters will permit.

Special Committees, representing both the Atchison, Topeka and Santa Fe Railroad Co. and The Pueblo and Arkansas Valley Railroad Co. have carefully considered the whole question, and favor the following proposal to the stockholders of the latter Company, and the following vote has been passed by the Executive Committee of this Company, viz:

That the President is hereby authorized to make the following proposal to the stockholders of The Pueblo and Arkansas Valley Railroad Co.:

This Company will issue two shares of its Capital Stock

an exchange for three shares of the Capital Stock of The Pueblo and Arkansas Valley Railroad Co., and this proposal shall be open for acceptance until the 2d proximo, and the President and Treasurer are authorized to issue stock for the purpose of said exchange, on and after the 6th inst. Circular 49.

THOS. NICKERSON,
President,
Atchison, Topeka and Santa Fe Railroad Co.

THOS. NICKERSON, Pres.

GEO. L. GOODWIN, Asst. Treas. Circular 51.

OFFICE OF THE

Atchison, Topeka and Santa Fe Railroad Co.

EQUITABLE BUILDING ROOM 24, 150 DEVONSHIRE ST.

P.O. BOX 2746.

CIRCULAR No. 51.

BOSTON, April 1, 1880. April 1, 1880.

In view of the fact that some of the Stockholders of The Pueblo and Arkansas Valley Railroad Company were absent or did not exchange their stock when the opportunity was offered them in January last, and also to enable these Stockholders to participate in the subscription soon to be issued for the building of the Atlantic and Pacific Railroad, the Executive Committee have authorized the President to make the following proposal, namely:

This Company will issue two shares of its Capital Stock for three shares of the Capital Stock of The Pueblo and Arkansas Valley Railroad Company, and this proposal shall be open until the 10th inst.

THOMAS NICKERSON,
President
Atchison, Topeka and Santa Fe Railroad Co.

THE ATCHISON COMPANY ACQUIRED by Exchange under the foregoing Circulars 41,706 shares of the stock of The Pueblo and Arkansas Valley Railroad Company. P. & A. V. stock acquired under foregoing circulars.

For issue of shares of the Atchison Company in exchange for said shares see Vol. I. p. 63.

STATEMENT
OF
ACQUISITION BY ATCHISON COMPANY
OF THE CAPITAL STOCK OF
**THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY (III.).**

	Cost to Atchison Co.	Par value P. & A. V. Stock
Purchased for cash at different times between April 15, 1880 and Oct. 4, 1880, from		
A. Merriam 1 share @ 85 . .	\$85.00	\$100.00
J. S. Nickerson 1 share @ 90 . .	90.00	100.00
E. H. Mason 2 shares @ 90 . .	180.00	200.00
J. J. Bright 1 share @ 90 . .	90.00	100.00
W. F. Ashton 1 share @ 90 . .	90.00	100.00
W. B. Sewall 1 share @ 85 . .	85.00	100.00
M. W. Opdyke 2 shares @ 85 . .	170.00	200.00
Jno. Locke 1 share @ 85 . .	85.00	100.00
Wm. F. Bailey 1 share @ 85 . .	85.00	100.00
G. B. Wilbur 1 share @ 85 . .	85.00	100.00
T. J. Coolidge 1 share @ 85 . .	85.00	100.00
Purchased for cash in accordance with vote of the Executive Committee of the Atchison Co. passed April 21, 1880, 985 shares @ 75	73,875.00	98,500.00
Exchanged under Circular No. 49 of the Atchison Co. on the basis of 2 shares of Atchison Stock for 3 shares of P. & A. V. stock 27,804 shares for 41,706 shares of P. & A. V. stock	2,780,400.00	4,170,600.00
Acquired in consideration of guarantee- ing the payment of principal and inter- est of P. & A. V. Bonds 8,878 shares		887,800.00
Received by Atchison Co. up to close of 1879 for \$313,000 of First Mortgage Bonds of The Pueblo and Arkansas Valley R.R. Co. (II.) purchased and can- celled, 3,130 shares. These bonds cost \$315,033.30, which represents the cost of this stock to the Atchison Co.	315,033.30	313,000.00
Purchased for \$105,456.25 on February 25, 1879, 1,450 shares	105,456.25	145,000.00
Total shares of P. & A. V. stock held by Atchison Co. 56,162 . .		\$5,616,200.00
Cost to Atchison Co.	\$3,275,894.55	

ACQUISITION

BY THE

ATCHISON COMPANY

OF THE

SECOND MORTGAGE BONDS

AND OF \$140,000 OF THE FIRST MORTGAGE BONDS OF

THE PUEBLO AND ARKANSAS VALLEY R.R. CO.

EXTRACT FROM THE RECORD OF A SPECIAL MEETING OF THE
 DIRECTORS OF THE PUEBLO AND ARKANSAS VALLEY
 RAILROAD COMPANY, HELD AT BOSTON ON DECEMBER 2,
 1884.

P. & A. V. Directors'
 Meeting Dec. 2, 1884.

By Mr. Cheney.

WHEREAS, this Company stands indebted upon its books
 of account to the Atchison, Topeka and Santa Fe Railroad
 Company for about \$200,000 advanced to it from time
 to time for the purposes of the road, and

Indebtedness to
 Atchison Co.

WHEREAS, since the execution of the lease between the
 two Companies dated June 1, 1880, the Atchison Company
 has in addition to the said indebtedness of \$200,000 ex-
 pended over one million dollars for permanent improve-
 ments, upon the road of this Company, such as new track,
 new side track, steel rails, new fences, bridges and build-
 ings and other and like improvements, which advances and
 expenditures it has been agreed between the two companies
 shall be repaid by this Company to the Atchison Company,
 this agreement superseding any provisions in the said lease
 concerning the said matters, and

Additional
 expenditures by
 Atchison Co. for
 improvements to be
 repaid under
 provisions of lease.

WHEREAS, this Company desires to provide for such pay-
 ment by creating a second mortgage upon its railroad
 franchises and property, which together with the outstand-
 ing first mortgages shall not exceed \$25,000 per mile of
 completed railroad;

Proposed Second
 Mortgage.

P. & A. V. Directors.

Authorization of
Second Mortgage.

NOW THEREFORE it is

VOTED that the Second Mortgage or Deed of Trust of this Company to the Boston Safe Deposit and Trust Company, as Trustee, dated July 1, 1884 is hereby approved in the following form now read to this Board and the President is hereby authorized to execute and the Secretary to attest the same.

(Here is inserted in the records a copy of the Second Mortgage.)

Authorization of
delivery of Second
Mortgage bonds to
Atchison Co. for
indebtedness and
expenditures for
improvements.

VOTED, that the President and Assistant Treasurer are hereby authorized to issue and deliver to said Atchison Company such an amount of said second mortgage bonds at par as shall cover the indebtedness of this Company to the Atchison Company as it shall stand upon this Company's books of account when made up to December 31, 1884, and also such an amount at par, as shall be equal to the Atchison Company's expenditures for permanent improvements to the same date of December 31, 1884, although such expenditures shall not hitherto have been charged to this Company nor credited to the Atchison Company.

Ratification of
foregoing action
by P. & A. V.
stockholders.

THE FOREGOING ACTION of the Directors was ratified by the Stockholders of the Pueblo and Arkansas Valley R.R. Co. at a Special Stockholders' Meeting held at Pueblo, Colorado on April 18th 1885.

A., T. & S. F.
Directors' Meeting
Jan. 6, 1885.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE ATCHISON COMPANY, HELD AT BOSTON ON JANUARY 6, 1885.

By Mr. Shattuck,

Indebtedness
to Atchison Co.

WHEREAS the Pueblo & Arkansas Valley Railroad Company stands indebted upon its books of account to this Company for about \$200,000 advanced to it from time to time for the purposes of its road,

Expenditure by
Atchison Co. for
improvements
under lease.

AND WHEREAS since the execution of the lease between the two Companies dated June 1, 1880, this Company has in addition to the said indebtedness of \$200,000 expended over one million dollars for permanent improvements upon

the road of that Company, which advances and expenditures it has been agreed between the two Companies shall be repaid by the said Pueblo and Arkansas Valley Railroad Company to this Company, this agreement superseding any provisions in the said lease concerning the said matters,

A. T. & S. F.
Directors.

NOW THEREFORE it is

VOTED, that this Company will accept from the said Pueblo and Arkansas Valley Railroad Company its Second Mortgage six per cent. Bonds, secured by its Second Mortgage of July 1st, 1884, at par in payment of that Company's indebtedness to this Company as it stands upon the books of account when made up to December 31, 1884, and also in payment for the amount of this Company's expenditures for said permanent improvements on that Company's road to the same date of December 31, 1884, which amount of said expenditures that Company has agreed to repay, although the same shall not hitherto have been charged to it nor credited to this Company.

Vote to accept
P. & A. V. Second
Mortgage bonds in
payment of
indebtedness and
expenditures for
improvements.

THE FOREGOING ACTION of the Directors of the Atchison Company was ratified at a meeting of the Stockholders, held at Topeka, Kansas, on April 16, 1885.

Ratification of
foregoing action
by A. T. & S. F.
stockholders.

EXTRACT FROM THE RECORD OF AN ANNUAL MEETING OF THE STOCKHOLDERS OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, HELD AT PUEBLO, COLORADO, ON MAY 7, 1887.

P. & A. V.
Stockholders' Meeting
May 7, 1887.

Upon motion of J. P. Whitehead, following preamble and resolutions were unanimously adopted.

Whereas, the Atchison Topeka & Santa Fe Railroad Company has advanced to this Company various sums of money for the purchase of coal lands and the improvement of this Company's coal property and has also made certain improvements on this Company's property which it is considered fair and reasonable shall be paid by this Company, and

Advances made by
Atchison Co. for
purchase of coal lands
and property.

Whereas, the balance of indebtedness for these purposes to the close of 1886 was \$128,473.14

Amount thereof.

P. & A. V.
stockholders
vote to pay said
indebtedness to
Atchison Co. in
Second Mortgage
bonds.

VOTED, That the proper officers of this Company are hereby authorized to sign and deliver to said Atchison, Topeka & Santa Fe Railroad Company, Second Mortgage Bonds at par in settlement of said indebtedness, as well as for any similar advances that may be made during the current year.

P. & A. V. Ex. Com.
Dec. 5, 1887.

EXTRACT FROM THE RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY, HELD AT BOSTON ON DECEMBER 5, 1887.

On motion of Mr. Whitehead the following vote was passed:

Money advanced by
Atchison Co. to build
road to Canon City.

Whereas there has been built for this Company about ten miles of road to Canon City, and

Whereas the Atchison, Topeka and Santa Fe Railroad Company has advanced the money for the same,

Vote to pay said
indebtedness in first
and second mortgage
bonds.

VOTED that in settlement of the indebtedness the proper officers of this company are hereby authorized to execute and deliver to the Atchison, Topeka and Santa Fe Railroad Company in full payment of said indebtedness, the first mortgage bonds of this Company at the rate of \$14,000 per mile, and its second mortgage bonds at the rate of \$11,000 per mile.

A. T. & S. F.
Directors' Meeting
Sept. 4, 1888.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE ATCHISON COMPANY, HELD AT BOSTON ON SEPTEMBER 4, 1888.

On motion of Mr. Sawyer,

Vote to purchase
\$500,000 of P. & A. V.
Second Mortgage
bonds to be issued
under terms of lease.

VOTED that this Company purchase Five Hundred Thousand Dollars of the Second Mortgage Six per cent. Bonds of The Pueblo and Arkansas Valley Railroad Company, and that it request the said The Pueblo and Arkansas Valley Railroad Company to execute and deliver the said bonds under and in accordance with the terms of Article Third of the Lease of the said The Pueblo & Arkansas Valley Railroad Company to this Company, dated June 19, 1880. That the said Bonds shall be purchased at par and

paid for by this Company in cash, to be furnished from time to time, as the same shall be required for the maintenance, improvement and extension of the said The Pueblo & Arkansas Valley Railroad Company.

EXTRACT FROM THE RECORD OF A SPECIAL MEETING OF THE
DIRECTORS OF THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY, HELD AT BOSTON ON SEPTEMBER
4, 1888.

P. & A. V.
Directors' Meeting
Sept. 4, 1888.

On motion of Mr. Speare,

WHEREAS, this Company is indebted to the Atchison, Topeka and Santa Fe Railroad Company about \$200,000 (Two Hundred Thousand Dollars) and will also require in the near future the sum of Six Hundred Thousand Dollars (\$600,000) for the maintenance, improvement and extension of its railroad, and the Atchison, Topeka and Santa Fe Railroad Company has under the terms of Article Third of the Lease of this Company to the said Atchison, Topeka and Santa Fe Railroad Company, dated June 19, 1880, requested this Company to execute and deliver on account of said expenditures, Five Hundred Thousand Dollars (\$500,000) of its six per cent. Second Mortgage Bonds, secured by this Company's Second Mortgage, dated July 1st, 1884, and

Indebtedness to
Atchison Co. and need
of further advances.

WHEREAS the said Atchison, Topeka and Santa Fe Railroad Company has agreed to purchase said Five Hundred Thousand Dollars (\$500,000) of this Company's Second Mortgage Bonds and pay for the same at par in cash, to be furnished from time to time, as the same shall be required for the maintenance, improvement and extension of this Company's road,

Agreement of
Atchison Co. to
purchase \$500,000 of
Second Mortgage
bonds.

Now IT IS VOTED, that this Company, for the consideration and upon the terms above recited, forthwith issue to the said Atchison, Topeka and Santa Fe Railroad Company the said amount of Five Hundred Thousand Dollars (\$500,000) of this Company's Second Mortgage Bonds and the Comptroller is hereby authorized and directed to execute the said bonds and the Assistant Treasurer to attest the same.

Vote to sell said
bonds to Atchison Co.

STATEMENT OF ACQUISITION

BY THE

ATCHISON COMPANY

OF THE SECOND MORTGAGE BONDS OF

THE PUEBLO AND ARKANSAS VALLEY R.R. C

Jan 31, 1885.

Received from the P. & A. V. R.R. Co.

on Jan. 2, 1885 in payment of the indebtedness of that Company Dec. 31, 1884 and for cost of improvements made by the Atchison Co. on the P. & A. V. road from 1880 to 1883 inclusive, (the indebtedness of Dec. 31, 1884 included cost of improvements for the year 1884) \$1,300,000 Second Mortgage 6% registered bonds par value, Nos. 1 to 1,300 inclusive. See votes of P. & A. V. directors passed Dec. 2, 1884 and stockholders Apr. 18, 1885, and vote of Atchison directors, Jan'y 6, 1885 .

\$1,300,000.00

Dec. 31, 1885.

Received from the P. & A. V. R.R. Co. as additional payment of indebtedness as above stated, \$80,000 Second Mortgage 6% registered bonds par value, Nos. 1301 to 1380 inclusive. See above named votes

80,000.00

Nov. 30, 1887.

Received from the P. & A. V. R.R. Co. on Nov. 4, 1877 on account of additions and improvements and advances to Canon City Coal Co. and for coal lands \$280,000 Second Mortgage 6% registered bonds par value, Nos. 1381 to 1660 inclusive. See above named votes

280,000.00

Amount carried forward, . . . \$1,660,000.00

Amount brought forward, . . . \$1,660,000.00

Dec. 31, 1887.

Received from the P. & A. V. R.R. Co.

on Dec. 5, 1887 (in connection with \$140,000 P. & A. V. First Mortgage Bonds) for construction of Clelland Extension from connection with Extension "B" to Canon City, including Y and branches to shafts 5 and 7, a total distance of 10.115 miles at \$11,000 per mile excluding fractions, \$110,000 Second Mortgage 6% registered bonds par value Nos. 1661 to 1770 inclusive. See vote of Executive Committee of P. & A. V. R.R. Co. passed Dec. 5, 1877.

110,000.00

Sept. 30, 1888.

Received from the P. & A. V. R.R. Co.

on Sept. 1, 1888 on account of maintenance, improvement and extension of its road, \$500,000 Second Mortgage 6% registered bonds par value Nos. 1771 to 2770 inclusive. See vote of P. & A. V. directors passed Sept. 4, 1888

500,000.00

\$2,270,000.00

For disposition by the Atchison Company of the above named Second Mortgage Bonds, see *ante*, p. 123.

STATEMENT OF ACQUISITION

BY THE

ATCHISON COMPANY

OF \$140,000 FIRST MORTGAGE BONDS OF

THE PUEBLO AND ARKANSAS VALLEY R.R. CO.

AND DISPOSITION THEREOF BY THE ATCHISON COMPANY.

Dec. 27, 1887.

Received from P. & A. V. R.R. Co. in payment for
 construction of Canon City Branch and extension at
 Pueblo \$140,000 First Mortgage 7% Bonds Nos.
 3889 to 4028 inclusive par value with No. 18 Coupons
 due Jan'y 1, 1888 on bonds \$140,000

The above named bonds were sold through
 Kidder, Peabody & Co. as follows:—

Dec. 27, 1887 . . .	Nos. 3889 to 3898 inc. . .	\$10,000
Jan. 10, 1888 . . .	" 3899 to 3907 " . . .	9,000
Jan. 16, 1888 . . .	" 3908 to 4007 " . . .	100,000
Jan. 25, 1888 . . .	" 4008 to 4012 " . . .	5,000
Jan. 30, 1888 . . .	" 4013 to 4014 " . . .	2,000
Jan. 31, 1888 . . .	" 4015 to 4024 " . . .	10,000
Feb. 10, 1888 . . .	" 4025 to 4028 " . . .	4,000
		<hr/> \$140,000

FORMER LEASE

OF ROAD AND PROPERTY OF

THE PUEBLO AND ARKANSAS VALLEY R.R. CO. (II.)

TO THE

ATCHISON COMPANY, DATED NOV. 15, 1875.

THIS INDENTURE of two parts, made this Fifteenth day of No- Nov. 15, 1875.
 vember A.D. eighteen hundred and seventy five, between the Pueblo and
 Arkansas Valley Railroad Company a corporation under the laws of
 Colorado, of the first part, and the Atchison, Topeka and Santa Fe
 Railroad Company, a corporation under the laws of the State of Kansas,
 of the second part, WITNESSETH:—

That the party of the first part, in consideration of one dollar to it
 paid by the party of the second part, the receipt whereof is hereby
 acknowledged, and of the covenants and agreements hereinafter con-
 tained to be kept and performed by the party of the second part, has
 granted, leased and demised, and doth by these presents grant, lease,
 and demise to the party of the second part and its successors, the whole
 of the railroad of the party of the first part as now or hereafter located
 and hereafter to be built and constructed by the party of the first part
 from the western terminus of the railroad of the party of the second part
 at the west line of the State of Kansas, up the Arkansas Valley to
 Pueblo, in Colorado, with all its lands, railways, rails, side tracks,
 bridges, rights of way, depots, stations, water stations, station houses,
 and all other buildings, improvements and appurtenances, and all rights,
 powers, easements, privileges and franchises of every nature whatsoever
 now enjoyed, held or owned, or which may at any time hereafter be ac-
 quired by said party of the first part, for the purpose of constructing or
 operating said railroad.

TO HAVE AND TO HOLD said demised railroad and premises
 aforesaid unto the party of the second part, its successors and assigns,
 for and during the term of thirty years, beginning on the First day of
 September A.D. eighteen hundred and seventy-five, yielding and paying
 therefor rent as hereinafter provided.

And in consideration of the premises, the party of the second part has
 covenanted and agreed, and doth by these presents covenant and agree
 for itself, its successors and assigns, with the party of the first part, its
 successors and assigns,—

First. That the said party of the second part at all times during the
 continuance of the said term of this lease after the completion of the
 road of the party of the first part, as hereinafter provided, shall and will
 maintain, manage, use and operate and keep in good and working order,
 condition and repair, at its own expense, the entire line of the said
 demised railroad and all the fixtures and appurtenances thereof, and

Former lease of
P. & A. V. to
Atchison Co.

keep the same fully supplied with motive power, rolling stock and equipments, so that the traffic and business of the road shall be encouraged and developed, and full accommodation given to the public on reasonable terms, and shall and will deliver up the said railroad and all its buildings, fixtures and appurtenances, at the expiration of said term in good order and repair.

Second. That the said party of the second part will, at its own cost, employ during the continuance of the said term, all such superintendents and employees as shall be necessary to maintain, work, use and operate said railroad hereby demised.

Rental consisting of
certain percentages
of gross earnings.

Third. That the party of the second part shall pay to the party of the first part a rental for the use of said road of thirty-five (35) per cent. of the gross earnings of said road, payable monthly, the payment out of the earnings for each month being payable on or before the last day of the following month, the first payment to be made on or before the last day of the month following that in which the road of the party of the first part shall have been completed to the satisfaction of the chief engineer of the party of the second part.

And it is further agreed, that whenever the gross earnings per mile per year shall exceed three thousand dollars, then the rental shall thereafter be reduced to thirty-three per cent. of the gross earnings; and that whenever the gross earnings per mile per year shall exceed four thousand dollars, the rental shall thereafter be reduced to thirty per cent. of the gross earnings.

Provisions as to
rebate of 15 per cent.
on gross earnings.

And it is further agreed, that the gross earnings from business, both freight and passenger, interchanged between the two roads, shall be divided pro rata according to number of miles hauled.

Provisions as to
application of said
rebate.

And it is further agreed, that the party of the second part shall on or before the end of the month following that in which the operating of said road shall be begun by the party of the second part, and on or before the end of each succeeding month thereafter, pay to the treasurer of the party of the first part a rebate of fifteen per cent. on the gross earnings on the road of the party of the second part, from all business brought from or delivered to the road of the party of the first part, but upon trust for the following purposes:— First, to apply each six months such portion thereof as may be necessary, in addition to the net amount of the rental hereinbefore mentioned, to the payment of the interest on the mortgage bonds of the party of the first part. Second, to apply what may remain after the payment of said interest, to the purchase and cancellation of the first mortgage bonds of the party of the first part, so long as they can be purchased at a price not exceeding ten per cent. above the par value thereof, in lawful money, and such purchases shall be made in such manner as the directors or the executive committee of the party of the second part shall prescribe; and in case said bonds cannot be purchased at a price not exceeding ten per cent. above the par value, said treasurer shall, with the written approval of the trustees of the mortgage of the party of the first part, invest said money in a sinking fund to be used for the payment of said bonds at maturity.

The issue of the said first mortgage bonds by the party of the first

part is not to exceed fourteen thousand dollars (\$14,000) per mile of main track.

Former lease of
P. & A. V. to
Atchison Co.

And it is further agreed, that when the total amount of cancelled bonds, and of sinking fund shall be equal to one fifth of the entire issue of first mortgage bonds, said rebate shall be reduced to twelve per cent.; and when said amount shall be equal to two-fifths of the entire original issue, said rebate shall be reduced to nine per cent.; when said amount equals three-fifths to six per cent., when said amount equals four fifths to three per cent. and when all said first mortgage bonds have been cancelled or secured by a sinking fund of equal amount, no further payments of rebate shall be made.

Fourth. That said party of the second part shall pay all taxes and assessments at any time hereafter imposed upon the party of the first part, under authority of the United States, State, County, or City or Township laws, or upon the whole or any part of the said road, its buildings or appurtenances, or any property hereby demised, of which thirty five per cent. shall be deducted from said rental, and sixty five per cent. shall be borne by the party of the second part.

Fifth. It is further provided, that whenever the laws of Colorado shall require the fencing of the railroad tracks, it shall be the duty of the party of the second part to fence the road hereby demised, and thirty five per cent. of the expenses of the aforesaid fencing shall be deducted, from time to time, from the amount to be paid to said party of the first part as rental.

Sixth. That the party of the second part shall keep accurate accounts of the business and earnings of said road, and shall render a monthly statement of said business and earnings and the character thereof, and shall furnish annually, on or before the first day of April, a detailed statement of the business of the road herein demised, for the previous year ending December the thirty-first, which statement shall be verified by the oath of the president, treasurer or auditor of said party of the second part, and that the road and premises herein demised, and the books, accounts and vouchers of the party of the second part, so far as they pertain to the business of said demised road, shall be at all times open to the inspection of the president or other authorized agent of the said party of the first part.

Seventh. That it will assume and pay all damages, demands and liabilities which may arise or be incurred by reason of any injury or damage to person or to personal or other property and all other damages whatsoever, resulting from, or growing out of the maintenance, repair, operation and running of said railroad by the party of the second part and will pay any penalties which may be imposed upon the railroad of the party of the first part or upon said party of the first part by reason of any neglect or omission of the party of the second part to comply with any statute or by the commission of any act which may be prohibited by law in the use of said railroad, and the interests hereby granted; and the said party of the second part agrees to indemnify and save harmless the said party of the first part against all expense, loss, damage and cost by reason of any of the matters and things aforesaid,

Former lease of
P. & A. V. to
Atchison Co.

and against any and all costs and expenses in any suit or proceedings authorized in the name of the party of the first part.

And, in consideration of the premises, the party of the first part, for itself, its successors and assigns covenants with the party of the second part, its successors and assigns:— First, That it will to the satisfaction of the chief engineer of the party of the second part, construct, furnish and complete its road from Sargent to Pueblo and surface it with banks of the width established on the road of the party of the second part, and construct substantial bridges over all water ways and provide the same with substantial freight and passenger station houses, and water stations and side tracks and other buildings necessary to do the business of the road.

Second. That it will, on demand, issue and deliver to the party of the second part from time to time, during said lease, paid up stock to an amount equal to the par value of first mortgage bonds, purchased and cancelled by the treasurer of the party of the first part, with the rebate hereinbefore mentioned, and also to an amount equal to the sinking fund hereinbefore provided for, as the same shall be paid in from time to time.

Third. That the said party of the first part and its successors shall and will, whenever required by the party of the second part or its successors, during the continuance of the said term, do and perform any and every corporate act which may be necessary, useful or appropriate to secure the said party of the second part or its successors the full enjoyment of the premises hereby demised, and of every franchise, right, easement, power, and privilege connected therewith or appertaining to the same, now possessed or which may be hereafter possessed by the party of the first part or its successors, and hereby granted or intended to be granted to the party of the second part and its successors under this instrument.

And the said party of the first part further covenants and agrees with the said party of the second part, that it will hereafter, at any time, upon the request of the party of the second part, give, make and execute such further and other conveyances and assurances, papers and instruments, as may be necessary or proper to carry into full force and effect all the objects and purposes of this indenture.

Fourth. That it, the said party of the first part, is well and lawfully possessed of the premises hereby demised, and has full power to convey the same as aforesaid, and the same in quiet enjoyment of the said party of the second part shall warrant and defend.

Fifth. That the party of the second part shall at all times during said term have the full and exclusive right to manage, use and control said demised railroad and premises, and to regulate and determine the rates of tolls, freight and charges of all the transportation over the whole or any part of said demised railroad and premises, and to charge and collect the same and appropriate the same to its own use, and shall have, use, exercise and enjoy all the rights, powers and authority aforesaid, and all other corporate powers, and all rights, powers and easements and privileges now possessed, or which may hereafter be acquired by the party of the first part, necessary or convenient to the use, for

session, enjoyment, management or operation of the road as herein provided, which can or may be lawfully exercised and enjoyed on and about, or in connection with said demised railroad and premises.

Former lease of
P. & A. V. to
Atchison Co.

And to enable the said party of the second part to beneficially enjoy said property, rights, privileges and benefits herein demised and mentioned and specified, the said party of the first part hereby appoints the said party of the second part, its successors and assigns, its attorney irrevocable, with full power and right to use the name of the said party of the first part in and about the business, maintenance, operation, and use of said road, with power to make any and all such contracts in proper furtherance of the objects hereinbefore set forth, and not otherwise, with any person or corporation, in the name of said party of the first part and under its corporate seal, or otherwise, and generally to do all other acts and things in and about the premises which said party of the first part might lawfully do, and to use the name of said party of the first part in and about any legal proceedings and suits, either at law or in equity, as the said party of the second part may see requisite and necessary in carrying out the objects and intent of this indenture.

All rolling stock and all other personal property which said party of the second part shall purchase or obtain for any purpose in connection with the railroad or other property hereby demised, shall be and remain the property of said party of the second part, and may, as well as any rails, sleepers, or other property which it desires to remove for the purposes of repairs or improvements, be removed and disposed of by said last named party for its own use, it being always understood and agreed, however, that it shall keep and deliver up said railroad and other property hereby demised in good repair and good working order and condition as hereinbefore agreed.

And all iron and ties and other materials for the construction of additional side tracks which may be needed from time to time for the accommodation of the business of the road, shall be furnished by the party of the second part, and thirty-five per cent. of the cost thereof may be deducted from said gross rental; but all the expense of laying said iron and ties, and of using such material, shall be borne by the party of the second part.

If, from time to time, it shall become necessary, in the judgment of the directors of the party of the second part, to erect other additional station houses, water stations, or make permanent improvements in addition to those hereinbefore provided for, in order to facilitate the business of the road thirty-five per cent. of the amount expended for such improvements shall be paid by the party of the first part, and shall be deducted from the rental to be paid to the party of the first part.

This lease is upon condition that the failure of the party of the second part for a period of three months to perform the covenants of this lease, as to payment of rent, by it stipulated to be paid, shall terminate said lease, if the party of the first part shall so elect.

And the party of the first part further agrees, that it will at any time during the term of this lease, upon the written request of the party of the second part, consolidate its stock with that of the party of the second

Former lease of
P. & A. V. to
Atchison Co.

part, and in case of failure to agree upon any of the terms of such consolidation, they are to be fixed by referees, one to be appointed by each of the parties, and the two so appointed to select a third.

The party of the first part shall at all times during the terms of this lease have the right to supply all the coal required for the operating of its road the same to be paid for by the party of the second part provided the quality and price are at all times satisfactory to the party of the second part.

IN WITNESS WHEREOF the said Pueblo and Arkansas Valley Railroad Company has caused these presents to be signed and its corporate seal to be hereto affixed by Jos. Nickerson its President thereunto duly authorized, and the said Atchison, Topeka and Santa Fe Railroad Company has caused these presents to be signed and its corporate seal to be affixed by Thomas Nickerson its President thereunto duly authorized, the day and year first above written.

THE PUEBLO & ARKANSAS VALLEY R.R. Co.

By JOS. NICKERSON,

[SEAL]

Attest: THOS. NICKERSON, *Treas.*

Pres.

THE ATCHISON, TOPEKA & SANTA FE R.R. Co.

By THOS. NICKERSON,

[SEAL]

Attest: CHAS. W. PIERCE, *Secretary.*

Pres.

STATE OF MASSACHUSETTS, }
COUNTY OF SUFFOLK, } ss.

Be it remembered that on this fifteenth day of November A.D. 1875, before me Geo. L. Goodwin a Notary Public within and for the County and State aforesaid personally came the Pueblo and Arkansas Valley Railroad Company by Jos. Nickerson its President who is personally known to me to be the same person who executed the foregoing instrument as President of said Railroad Company and he duly acknowledged the execution of the same to be the act of the said Pueblo and Arkansas Valley Railroad Company.

IN TESTIMONY WHEREOF I have hereunto set my hand and Notarial seal the day and year last above written.

[NOTARIAL SEAL]

GEO. L. GOODWIN,
Notary Public.

STATE OF MASSACHUSETTS, }
COUNTY OF SUFFOLK, } ss.

Be it remembered that on this fifteenth day of November A.D. 1875, before me Geo. L. Goodwin a Notary Public within and for the County and State aforesaid, personally came the Atchison, Topeka and Santa Fe Railroad Company by Thomas Nickerson its President who is personally known to me to be the same person who executed the foregoing instrument as President of said Railroad Company and he duly acknowledged the execution of the same to be the act of the said Atchison, Topeka & Santa Fe Railroad Company.

IN TESTIMONY WHEREOF I have hereunto set my hand and Notarial seal the day and year last above written.

[NOTARIAL SEAL]

GEO. L. GOODWIN,
Notary Public.

CANCELLATION OF FOREGOING LEASE

AND ASSENT OF HOLDERS OF FIRST MORTGAGE BONDS
TO ABANDONMENT OF REBATE.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE ATCHISON COMPANY, HELD AT BOSTON ON JUNE 7, 1880.

A., T. & S. F.
Directors' Meeting
June 7, 1880.

On motion of Mr. Thorndike,

VOTED, That the President be authorized to cancel the heretofore existing lease of the road of The Pueblo and Arkansas Valley R.R. Co. and to execute a new lease of the said road, substantially in the form now laid before the Board, and that he be authorized to procure the necessary assent of the stockholders of The Pueblo and Arkansas Valley R.R. Co. to the cancellation of the lease as it now exists, and to the execution of the new one.

Vote to cancel
existing lease and
execute new lease.

ALSO VOTED, That after the legal execution of said lease, and its ratification by the stockholders of The Pueblo and Arkansas Valley R.R. Co. the Atchison, Topeka and Santa Fe R.R. Co., in consideration of the rebate being abandoned, and the stock now held for that purpose in the hands of George B. Wilbur, Wm. T. Glidden, Alden Speare, Lucius G. Pratt and Edward H. Mason Trustees, being passed over to them, do hereby agree to guarantee the principal and interest of the First Mortgage Bonds of The Pueblo and Arkansas Valley R.R. Co. to the extent of \$14,000 per mile on all road built and now building.

Atchison Co. in
consideration of
abandonment of
rebate agrees to
guarantee P. & A. V.
First Mortgage bonds
to extent of \$14,000
per mile.

ALSO VOTED, That George B. Wilbur, Wm. T. Glidden, Alden Speare, Lucius G. Pratt and Edward H. Mason Trustees, be requested to transfer their stock back to the Atchison, Topeka and Santa Fe R.R. Co., and the said Trustees will hold them harmless for so doing.

Trustees requested to
transfer P. & A. V.
stock back to
Atchison Co.

ALSO VOTED, That the President be ordered to cancel the trust agreement with the above Trustees.

Cancellation of trust
agreement authorized.

P. & A. V. Ex. Com. **EXTRACT FROM THE RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE PUEBLO AND ARKANSAS VALLEY R.R. CO. HELD IN BOSTON ON JUNE 9, 1880.**
June 9, 1880

On motion of Mr. Sargent,

Abrogation of former lease authorized.

VOTED, That the President be authorized to abrogate the present lease to the Atchison, Topeka and Santa Fe R.R. Co. of that part of The Pueblo and Arkansas Valley Railroad Company lying between the State of Kansas and Pueblo.

On motion of Mr. Rotch,

New lease approved and its execution authorized.

VOTED, That the lease of this Company's lines of road to the Atchison, Topeka and Santa Fe R.R. Co. from January 1st, 1880 to September 12, 1928, as presented at this meeting, be and the same is hereby accepted on the part of this Company, and the President is authorized to execute the same under the corporate seal of this Company, with the attestation of the Secretary of this Company.

On motion of Mr. Rotch,

Trustees requested to transfer P. & A. V. stock to Atchison Co.

VOTED, That the President, in writing, request Messrs. Alden Speare, George B. Wilbur, L. G. Pratt, W. T. Glidden and E. H. Mason to transfer forthwith to the Atchison, Topeka and Santa Fe Railroad Company the shares of the capital stock of this Company held by them respectively under an agreement of trust with the Atchison Topeka and Santa Fe Railroad Company dated April 15, 1879, and the President is hereby authorized, after such transfers, to assent to the cancellation of said agreement of trust.

On motion of Mr. Burr,

Wm. J. Rotch, trustee, requested to transfer P. & A. V. stock back to that Co.

VOTED, That the President, in writing request Wm. J. Rotch Esq. to transfer to this Company all the shares of the capital stock of this Company held by him under an agreement of trust with this Company dated April 1880, and the President is hereby authorized, upon such transfer, to cancel and discharge said agreement of trust.

On motion of Mr. Sargent, seconded by Mr. Rotch,

A. T. & S. F. requested to stamp guaranty on bonds.

RESOLVED, That the Atchison, Topeka and Santa Fe Railroad Company be requested after the lease has been executed, and the Trustees have turned over their stock, to stamp upon the bonds of the Company a guarantee of both principal and interest.

For transfers of The Pueblo and Arkansas Valley Railroad Company by Wilbur, Glidden, Speare, Pratt and Mason, Trustees, under the foregoing votes, see *ante*, pp. 192, 193.

EXTRACT FROM THE RECORD OF AN ADJOURNED MEETING OF THE STOCKHOLDERS OF THE PUEBLO AND ARKANSAS VALLEY R.R. CO., HELD AT PUEBLO, COLORADO, ON JULY 15, 1880.

P. & A. V.
Stockholders' Meeting
July 15, 1880.

M. D. Thatcher offered the following preamble and resolution:

WHEREAS on the nineteenth day of June A.D. 1880 the Atchison, Topeka & Santa Fe Railroad Company and the Pueblo and Arkansas Valley Railroad Company by authority of their respective Boards of Directors executed a certain indenture of lease from the former to the latter company for the purpose of modifying in some respects the lease now existing between said companies, which proposed modified lease is subject to the ratification of the stockholders of said Pueblo and Arkansas Valley Railroad Company, and

Making of new
lease to Atchison
subject to approval of
stockholders.

WHEREAS it is not the purpose of either of said companies to abrogate the existing lease, but only to alter certain of its terms, leaving the former lease in full force and effect, except in so far as modified by the lease dated June 19th, A.D. 1880,

Former lease to be
confirmed except so
far as modified.

THEREFORE BE IT RESOLVED, that said indenture of lease bearing date June 19th, A.D. 1880. be and the same is hereby ratified and confirmed as a modification of the former lease dated November 15th, A.D. 1875.

New lease of June 19,
1880, ratified.

WHEREUPON the proposed lease which is in the words and figures following was read at the meeting by the Secretary.

(Here follows form of lease in the record of the meeting.)

On vote being taken by ballot in person and by proxy it was found that there were 48,741 shares voted in favor of the preamble and resolution and none against, whereupon they were declared adopted.

Stock vote.

DECLARATION OF TRUST

BY

WILLIAM J. ROTCH

HOLDER OF CERTAIN SHARES OF

**THE PUEBLO AND ARKANSAS VALLEY RAIL-
ROAD COMPANY**

REFERRED TO IN THE FOREGOING VOTES.

**Declaration of Trust
by Wm. J. Rotch as
to 8502 shares of
P. & A. V. stock.**

I, William J. Rotch of Boston, Mass., holding in my name as Trustee eight thousand five hundred and two (8502) shares of the capital stock of the Pueblo and Arkansas Valley Railroad Company, hereby acknowledge, certify and declare that I hold the same upon the following trusts for the use and benefit of said Railroad Company, and none other, to wit:

**To pay all dividends
thereon to R.R. Co.**

FIRST. To pay to the Treasurer of said Railroad Company, as soon as received by me, all sums of money received by me, as dividends on the stock so held by me.

**To vote thereon under
direction of R.R. Co.**

SECOND. To vote, or give proxies to vote, upon said stock so held by me, at any meeting of said Company as the President or Presiding Officer of said Company shall in writing request.

**To transfer said stock
on request of R.R. Co.**

THIRD. To transfer and deliver at any time or times on the written request of the President or Presiding Officer of said Company, to such person, persons or corporation as he may name, so many of said shares as he shall so request.

**Trust may be
transferred to another
trustee with approval
of R.R. Co.**

And I covenant and agree that I will continue to hold said shares upon the trusts above named, but I reserve the right to transfer to some other person, to hold on the same trusts, with the approval of the person who may be President or of a majority of the persons who may be directors

for the time being of said Company all of said shares then held by me, and to the faithful performance of these trusts and agreements I bind myself my heirs and representatives.

Witness my hand and seal this day of April A.D. April, 1880.
1880.

WM. J. ROTCH. [SEAL]

Witness,

S. W. REYNOLDS.

CANCELLED.

[Signatures cancelled by punching.]

THE SHARES OF THE Pueblo and Arkansas Valley Railroad Company named in the foregoing Declaration of Trust were transferred by the said William J. Rotch in accordance with the request contained in the foregoing votes and the Declaration of Trust thereupon cancelled.

Cancellation of
foregoing instrument
and termination of
trust.

AGREEMENT OF PRINCIPAL HOLDERS
OF
THE PUEBLO AND ARKANSAS VALLEY R.R. CO.
FIRST MORTGAGE BONDS
TO ACCEPT
ATCHISON COMPANY'S GUARANTEE
IN LIEU OF REBATE.

Assent of holders of
P. & A. V. First
Mortgage bonds to
giving up of rebate.

The undersigned holders of Pueblo and Arkansas Valley R.R. Co. First Mortgage Bonds assent to the giving up of the Rebate which has heretofore been used by the Atchison, Topeka and Santa Fe R.R. in the purchase of said Bonds, provided the Atchison Co. guarantees the Bonds Interest and Capital, which guarantee shall be stamped on each Bond.

June 7, 1880.

June 7, 1880.

W. POWER MASON.
I. T. BURR.
T. JEFFERSON COOLIDGE.
B. P. CHENEY.
LEE, HIGGINSON & CO.
KIDDER, PEABODY & CO.

[FORM OF GUARANTY STAMPED UPON THE PUEBLO AND ARKANSAS VALLEY
R.R. CO. FIRST MORTGAGE BONDS.]

Form of guaranty of
P. & A. V. First
Mortgage bonds by
Atchison Co.

In consideration of the modification dated June 19, 1880, of the lease providing for the payment of the principal and interest of the series of bonds, of which the within is one, the Atchison, Topeka and Santa Fe Railroad Company hereby guarantees such payment at maturity, the holder receiving this guarantee thereby assenting to said modification.

LEASE

OF ROAD AND PROPERTY OF

**THE PUEBLO AND ARKANSAS VALLEY
RAILROAD COMPANY (III.).**

TO

ATCHISON COMPANY,

DATED JUNE 19, 1880.

THIS INDENTURE, of two parts made this nineteenth day of June, A.D. 1880, between the Pueblo and Arkansas Valley Railroad Company, a corporation existing under the laws of the State of Colorado, party of the first part, and the Atchison, Topeka and Santa Fe Railroad Company, a corporation existing under the laws of the State of Kansas, party of the second part,

WITNESSETH:

That the party of the first part in consideration of one dollar, to it paid by the party of the second part, the receipt whereof is hereby acknowledged, and of the covenants and agreements hereinafter contained, to be kept and performed by the party of the second part, has granted, leased and demised, and doth by these presents grant, lease and demise to the party of the second part, and its successors, the whole of the railroad of the party of the first part, as now located and constructed, by the party of the first part, commencing at the western terminus of the railroad of the party of the second part, at the west line of the State of Kansas, and thence running up the valley of the Arkansas River, through Bent and Pueblo Counties, to Pueblo, in said Colorado; also the whole of the railroad of the party of the first part, as now located and constructed, commencing at a point on the line of railroad above described, at or

June 19, 1880.

Parties.

Lease by P. & A. V.
to Atchison Co.Description of
property leased.

Lease of P. & A. V.
to Atchison Co.

Description of
property leased.

near La Junta, in said Bent County, and running southerly or southwesterly through said Bent County and Las Animas County, via Trinidad, to the south line of the State of Colorado, at what is known as Raton Pass; also the whole of the railroad of the party of the first part as now located and constructed, and in process of construction, commencing at Pueblo aforesaid, and running westerly through said Pueblo County and Fremont County to the coal fields at or near Canon City, in said Fremont County; also all extensions and branches of and to any of said lines in process of construction or to be constructed under the articles of incorporation and filed locations of the party of the first part, including all railroads, ways, rights of way, depot grounds, rolling stock and other equipment; all tracks, bridges, viaducts, culverts, fences, and other structures; all depots, station houses, engine houses, and other buildings; And all machine shops, and other shops, whether now held or hereafter to be acquired for use in connection with the said railroads, and including also all lands occupied by the same or connected therewith, and all the rights, privileges and franchises now held or hereafter acquired by the said party of the first part.

Term of lease from
Jan. 1, 1880, to
Sept. 12, 1928

TO HAVE AND TO HOLD said demised railroads and premises aforesaid unto the party of the second part, its successors and assigns, from the first day of January A.D. eighteen hundred and eighty, until and including the twelfth day of September A.D. nineteen hundred and twenty eight, yielding and paying therefor rent as hereinafter provided.

And in consideration of the premises the parties hereto do covenant, promise and agree, each for itself, its successors and assigns to and with the other party hereto, its successors and assigns, as follows, to wit:

Atchison Co. to
maintain and manage
road and keep it
supplied with rolling
stock.

Article First: — The said party of the second part at all times during the continuance of the said term of this lease, after the completion of the roads of the party of the first part, as hereinafter provided, shall and will maintain, manage, use and operate, and keep in good and working order, condition and repair, at its own expense, the entire lines

of the said demised railroads, and all the fixtures and appurtenances thereof, and keep the same fully supplied with motive power, rolling stock and equipments, so that the traffic and business of the roads shall be encouraged and developed, and full accommodation given to the public on reasonable terms, and shall and will deliver up the said railroads and all their buildings, fixtures, and appurtenances, at the expiration of said term, in good order and repair.

Lease of P. & A. V.
to Atchison Co.

Article Second:—The said party of the second part will, at its own cost, employ during the continuance of said term, all such superintendents and employes as shall be necessary to maintain, work, use and operate, said railroads hereby demised.

Atchison Co. to
employ all necessary
superintendents and
employees.

Article Third:—The party of the second part shall, as and for rental to be paid for the use of said roads to the party of the first part, pay promptly as the same become due and payable according to their tenor, the interest or coupons upon the first mortgage bonds of the party of the first part, limited to the amount of fourteen thousand dollars a mile of completed railroad, whether such bonds have already been issued or shall hereafter be issued under the terms of said mortgage for the completion of said roads, extensions and branches, as therein recited.

Rental.

And also pay promptly as the same become due and payable according to their tenor, the interest or coupons upon any bonds which may be found necessary to raise funds for the completion of the construction of said roads, extensions and branches, and which the party of the first part may execute and deliver at the request of the party of the second part, and upon any bonds secured by mortgage or not, to such amounts and at such rates of interest as the party of the first part may find it necessary to execute and deliver in order to redeem, take up and pay at maturity, any of the bonds above named, falling due during the continuance of this lease; the party of the second part having the option of buying at maturity any of said bonds so falling due, and holding the same against the party of the first part, instead of allowing such new bonds to be issued in place thereof.

Lease of P. & A. V.
to Atchison Co.

It being understood, that should the earnings of said roads be insufficient to meet the rental above provided during the continuance of this lease, no part of the deficiency shall be charged to the party of the first part, nor shall the party of the first part be in anywise liable therefor.

Atchison Co. to pay
all taxes and
assessments during
term.

Article Fourth:—The party of the second part shall at all times during the continuance of this lease, pay all taxes and assessments at any time hereafter imposed upon the party of the first part, under authority of the United States, State, County, City, or Township laws, upon the whole or any part of the said road, its buildings or appurtenances, or any property hereby demised, and whenever the laws of Colorado shall require the fencing of the railroad tracks, it shall be the duty of the party of the second part to fence the roads hereto demised, at its own cost and expense.

Atchison Co. agrees
to make all necessary
permanent
improvements at its
own expense.

Article Fifth:—The party of the second part, agrees that from and after the completion and acceptance of any of said lines, extensions or branches, should it become necessary or desirable in its judgment, for the accommodation of the business of such road to construct additional side tracks, erect additional station houses and water stations or make other permanent improvements; it will make all such improvements at its own cost and expense.

Atchison Co. to keep
accurate accounts and
to furnish monthly
and annual
statements.

Article Sixth:—The party of the second part, shall keep accurate accounts of the business and earnings, and of all other receipts and expenditures of said roads, and shall render a monthly statement of said business and earnings, and of all other receipts and expenditures, and the character thereof, and shall furnish annually on or before the first day of April, a detailed statement of the business of the roads herein demised, for the previous year ending December the thirty first; and the roads and premises herein demised, and the books, accounts and vouchers of the party of the second part, so far as they pertain to the business of said demised roads, shall be at all times open to the inspection of the President or other authorized agent of the party of the first part.

Also to furnish all
statements required
by law.

And the party of the second part shall also furnish, at the request of the party of the first part, from time to time

whenever necessary, any and all reports and statements, which the said party of the first part is now or may be hereafter required to make or file under or by virtue of any laws enacted by competent authority.

Lease of P. & A. V.
to Atchison Co.

Article Seventh:—The party of the second part shall assume and pay all damages, demands and liabilities which may arise or be incurred by reason of any injury or damage to person or to personal or to other property, and all other damages whatsoever resulting from or growing out of the maintenance, repair, operation and running of said railroads by the party of the second part, and will pay any penalties, which may be imposed upon the railroads of the party of the first part, or upon said party of the first part, by reason of any neglect or omission of the party of the second part to comply with any statute, or by any commission of any act, which may be prohibited by law, in the use of said railroads and the interests hereby granted, and the said party of the second part agrees to indemnify and save harmless, the said party of the first part against all expense, loss, damage and cost by reason of any of the matters, and things aforesaid, and against any and all costs and expenses, in any suit or proceedings authorized in the name of the party of the first part.

Atchison Co. to pay
all damages for injury
to person or property
and otherwise
incurred.

Article Eighth:—The party of the second part shall at all times, during the said term have the full and exclusive right to manage, use, and control said demised railroads and premises, and to regulate and determine the rates of tolls, freights, and charges of all the transportation over the whole or any part of said demised railroads or premises and to charge and collect the same and appropriate the same to its own use, and shall have, use, exercise and enjoy all the rights, powers and authority aforesaid, and all other corporate powers, and all rights, powers, and easements and privileges, now possessed or which may hereafter be acquired by the party of the first part, necessary or convenient to the use, possession or enjoyment, management or operation of the road, as herein provided, which can or may be lawfully exercised and enjoyed on and about or in connection with said demised railroad and premises.

Atchison Co. to have
exclusive
management and
control of leased
railroads and
property.

Lease of P. & A. V.
to Atchison Co.

Covenants of title and
quiet enjoyment

P. & A. V. to do all
necessary corporate
acts.

Covenant of further
assurance.

P. & A. V. appoints
Atchison Co.
its attorney.

Article Ninth: — The party of the first part covenants and agrees that it is well and lawfully possessed of the premises hereby demised, and has full power to convey the same as aforesaid, and the same in quiet enjoyment of the said party of the second part shall warrant and defend:

That it and its successors shall and will, whenever required by the party of the second part, or its successors, during the continuance of said term, do and perform, any and every corporate act, which may be necessary, useful or appropriate, to secure to the said party of the second part, or its successors, the full enjoyment of the premises hereby demised, and of every franchise right, easement, power and privilege connected therewith or appertaining to the same, now possessed or which may be hereafter possessed by the party of the first part or its successors, and hereby granted or intended to be granted to the party of the second part and its successors under this instrument.

That it will hereafter at any time upon the request of the party of the second part, give make and execute such further and other conveyance and assurances, papers and instruments as may be necessary or proper to carry into full force and effect, all the objects and purposes of this indenture.

And to enable the said party of the second part to beneficially enjoy said property, rights, privileges, and benefits herein demised and mentioned and specified, the said party of the first part hereby appoints the said party of the second part, its successors and assigns, its attorney irrevocable with full power and right to use the name of the said party of the first part, in and about the business, maintenance, operation and use of said road, with power to make any and all such contracts in proper furtherance of the objects hereinbefore set forth, and not otherwise with any person or corporation in the name of said party of the first part, and under its corporate seal or otherwise, and generally to do all other acts, and things in and about the premises, which said party of the first part might lawfully do, and to use the name of said party of the first part in and about any legal proceedings and suits either at law or in equity, as

the said party of the second part may see requisite and necessary in carrying out the objects and intent of this indenture.

Lease of P. & A. V.
to Atchison Co.

Article Tenth:—The party of the first part covenants and agrees, that it will as soon as practicable in each case, complete the lines of road, extensions and branches hereby demised, as to road-bed, iron, ties, bridges, buildings, and in all other respects according to the standard adopted by the party of the second part, when its main line was constructed in Kansas, as evidenced by the certificate of the chief engineer of the party of the first part to that effect.

P. & A. V. agrees
to complete its
road, extensions
and branches.

Article Eleventh:—All rolling stock and all other personal property which said party of the second part shall purchase or obtain for any purpose in connection with the railroad or other property hereby demised, shall be and remain the property of said party of the second part, and may as well as any rails, sleepers or other property, which it desires to remove for the purpose of repairs or improvements, be removed and disposed of, by said last named party for its own use, it being always understood and agreed however, that it shall keep and deliver up said railroad and other property hereby demised, in good repair and good working order and conditions hereinbefore agreed.

Rolling stock and
other personal
property to remain
the property of
Atchison Co. and may
be removed and
disposed of.

Article Twelfth:—This lease is upon condition that the failure of the party of the second part for a period of three months to perform the covenant of this lease, as to payment of rent, by it stipulated to be paid shall terminate said lease, if the party of the first part shall so elect.

On failure of
Atchison Co. for
three months to
pay rent, P. & A. V.
may terminate lease.

Article Thirteenth:—All matters of dispute which may arise between the parties hereto in connection with or growing out of this indenture, shall be submitted to the arbitrament and award of three disinterested persons, one to be chosen by each of the parties hereto, and the third by the two so chosen, and the award of these three or of a majority of them shall be final and binding upon the parties hereto, upon all the matters submitted to such arbitrators.

Provision for
submission to
arbitration of all
matters of dispute.

Lease of P. & A. V.
to Atchison Co.
Attesting clause.

IN WITNESS WHEREOF, the parties hereto have caused their respective corporate seals to be hereto affixed; and this instrument to be signed by their respective Presidents and attested by their respective Secretaries, thereto duly authorized the day and year first above written.

THE PUEBLO AND ARKANSAS VALLEY RAILROAD COMPANY.

By T. JEFFERSON COOLIDGE,
[SEAL] *President.*

Attest:
M. D. THATCHER,
Secretary.

ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY.

By T. JEFFERSON COOLIDGE,
[SEAL] *President.*

Attest:
GEO. L. GOODWIN,
Ass't Secretary.

Acknowledgment
by P. & A. V.

STATE OF MASSACHUSETTS, }
COUNTY OF SUFFOLK, } ss.

Be it remembered, that on this nineteenth day of June A.D. 1880, before me, Geo. L. Goodwin, a Notary Public within and for the County and State aforesaid, personally came, T. Jefferson Coolidge, who is personally known to me to be the same person who executed the foregoing lease as therein stated; and duly acknowledged the execution of the same as the free act and deed of the Pueblo and Arkansas Valley Railroad Company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal the day and year last above written.

[SEAL] GEORGE L. GOODWIN,
Notary Public.

STATE OF MASSACHUSETTS, }
COUNTY OF SUFFOLK, } ss.

Lease of P. & A. V.
to Atchison Co.

Be it remembered that on this nineteenth day of June A.D. 1880, before me, George L. Goodwin, a Notary Public within and for the County and State aforesaid, personally came T. Jefferson Coolidge, who is personally known to me to be the same person who executed the foregoing lease, as therein stated; and duly acknowledged the execution of the same, as the free act and deed of the Atchison, Topeka and Santa Fe Railroad Company.

Acknowledgement
by Atchison Co.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal the day and year last above written.

[SEAL]

GEO. L. GOODWIN,
Notary Public.

For ratification of the foregoing lease by the stockholders of The Pueblo and Arkansas Valley Railroad Company, see *ante*, p. 319, and the said lease was further ratified under the provisions of the statute of Kansas of February 11, 1887 by a vote of the directors of said company passed on May 7, 1887.

References to
ratifications of
foregoing lease.

For ratifications of the foregoing lease by the stockholders of the Atchison Company, see Volume I. pages 107, 110 and 114.

AGREEMENT
OF
THE PUEBLO AND ARKANSAS VALLEY R.R. CO.,
ATCHISON COMPANY,
AND
PUEBLO AND STATE LINE R.R. CO.
WITH THE
DENVER, TEXAS AND FORT WORTH R.R. CO.

BY WHICH THEY ACQUIRED CERTAIN RIGHTS TO USE THE
TRACKS OF SAID LAST NAMED COMPANY RUNNING TO
SOUTH PUEBLO NEAR THE PUEBLO STEEL WORKS
AND SMELTERS AND OTHER INDUSTRIES.

May 18, 1888.

Parties.

THIS AGREEMENT, made and entered into this eighteenth (18th) day of May, A.D. 1888, by and between the Denver, Texas & Fort Worth Railroad Company, hereinafter called "Denver Company," the Pueblo and Arkansas Valley Railroad Company and Atchison, Topeka & Santa Fe Railroad Company, hereinafter called the "Pueblo Company," and the Pueblo and State Line Railroad Company, hereinafter called the "State Line Company"; WITNESSETH, that,

Recitals.

Whereas, the Denver Company is engaged in constructing a line of railroad from Pueblo, Colorado, southerly, in the State of Colorado; and

Whereas, said road, when completed, will pass near the Pueblo Steel Works, located in or near South Pueblo, Colorado, and other smelters and industrial works; and

Whereas, the Pueblo Company and the State Line Company are severally desirous of reaching said Steel Works, smelters and other industries that may from time to time be established along said line of the Denver Company, it is therefore agreed between the above mentioned parties hereto, as follows:

First. The Denver Company shall, within six months from the date hereof, complete its line of road, between Pueblo and the Steel Works aforesaid, at Bessemer, herein-after called the Main Line, and that on completion of said Main Line the Pueblo Company and the State Line Company shall severally have the right to run their cars and switch engines over the said Main Line from the junction of their roads respectively with the said Main Line, under reasonable rules and regulations to be established by the Denver Company, for the purpose of switching to and from the said Steel Works or other industries now established or hereafter to be established along the line of said Denver Company's road.

Agreement with
Denver, Texas
& Fort Worth.

D. T. & F. W. to
construct main line
between Pueblo and
Steel Works at
Bessemer, which
the other parties
may use.

Second. It is further agreed that either company may at any time hereafter construct any siding connecting with said Main Line, as shown by map attached, not exceeding four thousand (4,000) feet in length from the junction thereof with the said Main track to any industry established along said track, and that the other companies, parties hereto, or any of them, may use said track if it so elects, as hereinafter provided.

Either company may
hereafter construct
sidings connecting
with said main line.

In consideration of the above rights and privileges, it is further agreed that the Pueblo Company and the State Line Company shall each pay to the Denver Company, semi-annually, on the first days of April and October, five per cent. on one-third of the certified cost of said Main track; or, in case either of the said companies shall hereafter forfeit its right under this agreement, then the other of the said companies shall pay to the Denver Company, semi-annually, on the days aforesaid, five per cent. upon one-half of such certified cost of the said Main track.

Rental to be paid
by each company
equal to five per cent.
on one-third of
certified cost.

Any siding constructed as hereinbefore provided, shall be owned and controlled by the party constructing it; but it is expressly agreed that any other company party hereto, may use the same by serving written notice to the owner of its desire so to do, and that thereafter each company using the same shall pay interest account on certified cost, share and share alike, at the rate of five per cent. on certified cost, settlement to be made semi-annually, and at the same

Sidings to be owned
by party constructing
same, but may be used
by the others on
written notice and
paying rental.

Agreement with
Denver, Texas &
Fort Worth.

time that interest account is settled upon the Main Line: cost of Main Line or sidings upon which interest account statements are based, shall be verified by the Auditor of the company constructing the same, and certified by its Chief Engineer.

Provisions as to
sidings beyond 4,000
feet from junction.

Sidings extending beyond four thousand (4,000) feet from the junction with Main Line may be constructed by either party, but only upon mutual consent, expressed in writing and attached to this agreement.

Provisions for
building additional
tracks if necessary.

Third. In case the Main Line traffic of the Denver Company shall hereafter at any time so increase as to interfere with the rights of the Pueblo and State Line Companies guaranteed under this contract, then the Denver Company shall build a second track, or as many tracks as may be necessary to secure to the Pueblo and State Line Companies their respective rights under this agreement.

In case it shall be hereafter determined that more than one track is necessary for switching purposes, it is hereby agreed that the cost of said track may be added to the original account. The interest account shall not be changed after the first certificate of cost is made, except for a second track for switching purposes as herein provided, or to cover the cost of masonry and iron bridge crossing the Arkansas River, which it is hereby agreed shall be added to interest account; first deducting therefrom the original cost of the pile or temporary bridge included in the original capital statement.

Taxes and
assessments to be
borne equally by the
parties.

Fourth. Taxes, costs of viaducts for highway crossings, over or under-grade, and all expenses incurred by authority of law, shall be borne share and share alike by the parties hereto.

Provisions for
maintenance of joint
tracks, renewals and
betterments.

Fifth. Maintenance of all joint track, renewals and betterments shall be paid by the respective companies upon basis of wheelage — as the number of wheels per mile run over said track, or any part thereof, bears to the whole number of wheels run over the same during the said period, and settlements therefor, as well as for the expenses incurred under the Fourth Article, shall be made monthly between the companies, and payment of the balance found

Monthly settlements.

due upon any such settlement shall be made semi-annually, on the first days of April and October.

Agreement with
Denver, Texas &
Fort Worth.

Sixth. This contract shall be perpetual, or shall exist during the corporate life of the parties hereto, subject to renewed corporate life under the statutes of Colorado.

Contract to exist
during corporate life
of the parties.

Seventh. It is further mutually agreed by and between the parties hereto, that each company, party hereto, shall be solely responsible for all damages to persons and property resulting from any misconduct or negligence of its employees engaged in the joint operation of said tracks, and that each company shall solely bear and pay for any damages to private parties, resulting from the operation of its trains on or along said joint tracks.

Each party to be
solely responsible for
damage resulting
from operation of its
trains on joint tracks.

Eighth. No other company than the parties hereto shall be granted similar rights over said tracks, nor shall either company license or authorize any other company to run its cars, engines or trains over any part of said Main Line or sidings, or any part thereof, except by mutual consent in writing of all the parties in interest.

No other company to
be granted similar
rights without
written consent of all
the parties.

Ninth. It is expressly agreed that if either the Pueblo Company or the State Line Company shall fail to make any of the payments, or to perform any of the obligations to the Denver Company required by the foregoing contract within thirty days after the same have become due and have been demanded, then, at the election of the said Denver Company, the rights of such defaulting company under this contract shall be forfeited, and the Denver Company may re-enter, and take possession of the track and premises as against any such defaulting company. It is further agreed and understood, that in such case, the other parties to such contract shall pay to the Denver Company, semi-annually, on the days aforesaid, five per cent., on one-half of the certified cost of Main track, and shall also pay one-half of the taxes and other costs and expenses specified in the foregoing agreement, which agreement shall, in such event, stand for the joint and equal benefit of the other remaining parties hereto: and subject to the provisions of this contract. And in like manner, if either of the parties hereto shall construct any siding connecting with the said Main

Provisions in case of
failure to make
payments or perform
obligations under this
contract.

Agreement with
Denver, Texas &
Fort Worth.

Line, and either of the other companies, parties hereto, having elected to have the benefits of this contract in respect thereof, shall afterwards make default in the payment of any instalment of interest, or any balance by it due and owing for taxes or other expenses in pursuance of the Fourth and Fifth Articles, or either thereof (payable in respect of such siding) for thirty days after the same shall have become due, and have been demanded, then, and in any such case, at the election of the company constructing such siding, the right of the company so defaulting shall be determined and at an end, and the company constructing such siding may forthwith assume exclusive possession thereof, and of the appurtenances thereof, and from thenceforth exclude the defaulting company from all use or enjoyment of such sidings or the appurtenances, and in every such case the other company still enjoying and using such siding jointly with the company constructing the same, shall pay to such constructing company, semi-annually on the first days of April and October, five per cent. of one-half of the certified cost of such siding, and shall also bear and pay monthly, as hereinbefore provided, one-half the taxes and other costs and expenses hereinbefore specified.

Provision for
arbitration.

Tenth. Any matter or difference which may arise between the parties, having reference to this agreement, either as to its construction, or any alleged violations of its provisions, or refusal to perform the duties which it imposes, if it cannot be amicably adjusted, shall be, on the demand of either party, submitted to three disinterested parties, experienced in railway operation, as arbitrators, one of which shall be selected by each party. The party demanding reference shall give to the other party notice of such demand, stating specifically the question to be submitted for decision, and nominating a disinterested person who has had experience in railway operation, to act as one referee. If, at the expiration of twenty days from the receipt of such notice, the party receiving it has not notified the party demanding the reference of its nomination of a second referee, having like qualifications the party mak-

ing the demand may make such selection. The first and second referees chosen shall select a third, and when the board is complete, the referees shall fix a day and place for the hearing, of which the parties shall be severally notified. After hearing the testimony and arguments which may be submitted by each party, they shall state their award in writing, which, when delivered to both parties, shall be binding and conclusive upon each, and each party hereby expressly agrees to be exclusively bound thereby. If either party shall refuse to keep and perform such award, the adverse party may in such event, have the right upon its own election, expressed in writing, to declare this lease forfeited and of no further effect or obligation.

Agreement with
Denver, Texas &
Fort Worth.

Eleventh. Nothing herein contained shall be of force or effect as to either of the parties hereto until ratified by its Board of Directors, nor until ratified by the Board of Directors of said Denver Company.

Ratification by
Directors required.

IN WITNESS WHEREOF, the said Denver, Texas & Fort Worth Railroad Company hath caused these presents to be subscribed by Sidney Dillon Esq., its President and the said Pueblo & Arkansas Valley Railroad Company and the said Atchison, Topeka & Santa Fe Railroad Company have caused the same to be subscribed by Wm. B. Strong Esq. its President and the said Pueblo & State Line Railroad Company hath caused these presents to be subscribed by S. H. H. Clark Esq., its President and each of said companies have caused these presents to be attested by its Secretary and its corporate seal to be affixed the day and year first above written.

Attesting clause.

THE DENVER, TEXAS & FORT WORTH RAILROAD COMPANY.

By SIDNEY DILLON,

President.

[SEAL]

Attest:

J. T. GRANGER, *Ass't Secretary.*

THE PUEBLO & ARKANSAS VALLEY RAILROAD COMPANY.

By WM. B. STRONG,

Pres't.

[SEAL]

Attest:

M. D. THATCHER, *Sec'y.*

The P. & A. V. R.R. Co.

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Agreement with
Denver, Texas &
Fort Worth.

THE ATCHISON, TOPEKA & SANTA FE RAILROAD COMPANY.

By WM. B. STRONG,
Pres't.

[SEAL]

Attest:

E. WILDER,
Secretary.

THE PUEBLO & STATE LINE RAILROAD COMPANY.

By S. H. H. CLARK,
Pres't.

[SEAL]

Attest:

GEO. C. SMITH,
Secretary.

INDORSEMENT ON FOREGOING AGREEMENT.

The Denver, Texas & Fort Worth Railroad Company.

NO. 1 BROADWAY, NEW YORK.

April 23, 1888.

April 23, 1888.

Certificate of
authorisation of
foregoing agreement
by Directors of
D., T. & Fort Worth.

At a meeting of the Board of Directors of The Denver, Texas & Fort Worth Railroad Company, held at the office of the Company in the City of New York, on April 23rd, 1888, the foregoing contract was duly presented, and, on motion of Mr. Levis, duly seconded, was fully approved and the President authorized to sign the same.

J. T. GRANGER,
Assistant Secretary.

[SEAL]

Reference to contract
of June 1, 1887, by
which P. & A. V.
made certain grants
to D., T. & G.

For Contract between the Denver, Texas and Gulf Railroad Company, the Denver and Santa Fe Railway Company and The Pueblo and Arkansas Valley Railroad Company, dated June 1, 1887, by which The Pueblo and Arkansas Valley Railroad Company granted certain rights of way to the Denver, Texas and Gulf Railroad Company see *post*, p. 445.

DOCUMENTS

RELATING TO

THE DENVER AND SANTA FE
RAILWAY COMPANY.

The Denver and Santa Fe Railway Company was created under the laws of the State of Colorado by Articles of Incorporation filed on March 22, 1887.

MILEAGE

OF

THE DENVER AND SANTA FE RAILWAY
COMPANY.

MAIN LINE from (Pueblo to Denver)	116.36 miles
Sheridan Heights Extension, (from a connection with Denver Circle Railway at Jewell Park to Sheridan Heights)	1.66 "
Denver Circle Railway,	<u>8.01</u> "
Total mileage,	126.03 "

ARTICLES OF INCORPORATION

OF

THE DENVER AND SANTA FE RAILWAY COMPANY.

Names of
incorporators.

KNOW ALL MEN BY THESE PRESENTS, That we, J. E. Condict, Charles L. McIntosh, and T. C. Henry, of Arapahoe county, and C. C. Welch of Jefferson county, and E. T. Alling of Fremont county, all residents of the state of Colorado, have associated ourselves together as a corporation under the name and style of The Denver and Santa Fé Railway Company, for the purpose of becoming a body corporate and politic under and by virtue of the laws of the state of Colorado, and in accordance with the provisions of the laws of said state, we do hereby make, execute, and acknowledge in this certificate in writing of our intention so to become a body corporate, under and by virtue of said laws.

Corporate name.

FIRST. The corporate name and style of our said corporation shall be The Denver and Santa Fé Railway Company.

Objects of corporation
and authorized lines.

SECOND. The objects for which our said corporation is formed and incorporated are for the purposes of constructing, maintaining and operating a line of railway and telegraph, with such branches as may hereafter be determined upon, beginning at the city of Pueblo, in Pueblo county, following thence in a general northerly direction along the Fountain qui bouille to Colorado Springs, and in the same general direction, and by the most practicable route to Denver, and thence to the city of Golden, in Jefferson county, all in the state of Colorado, and for the purpose aforesaid, to purchase at foreclosure sale, or otherwise, the railroads, property and franchises of The Denver Circle Railroad Company, to lay a third rail thereon, and to operate the same in and around the city of Denver, and to purchase such other railway property, interests, rights, or real estate contiguous to the route herein indicated as may be needed for terminal or other railroad purposes.

THIRD. The capital stock of our said corporation is Three Million, Five Hundred Thousand (3,500,000) dollars, to be divided into Thirty-five thousand (35,000) shares of One Hundred (100) dollars for each share.

Art. of Inc. D. & S. F.
Capital stock.

FOURTH. Our said Corporation is to exist for the term of Fifty (50) years, commencing with the filing of this certificate of incorporation.

Term of corporate
existence.

FIFTH. The affairs and management of our said corporation is to be under the control of Seven Directors, and J. E. Conduct, Chas. L. McIntosh, T. C. Henry, C. C. Welch, E. T. Alling, B. F. Crowell and Edward F. Bishop are hereby selected to act as said Directors and to manage the affairs and concerns of said corporation until the first annual meeting of stockholders in the year 1888.

Directors.

SIXTH. The operations of our said corporation will be carried on in the counties of Pueblo, El Paso, Douglas, Arapahoe and Jefferson, and the principal place and business office of said corporation shall be located in the city of Denver, county of Arapahoe, and state aforesaid; but the Board of Directors may hold meetings beyond the limits of the state of Colorado, at such place or places as may be determined by the by-laws.

Counties and principal
place of business.

Directors may hold
meetings outside of
Colorado.

SEVENTH. The Directors shall have power to make such prudential by-laws as they may deem proper for the management of the affairs of this corporation according to the statute in such case made and provided.

Directors may make
by-laws.

IN TESTIMONY WHEREOF, We have hereunto set our hands and seals on this twenty-second day of March, A.D. 1887.

Attesting clause.

J. E. CONDUCT.	[SEAL]
CHARLES L. MCINTOSH.	[SEAL]
T. C. HENRY.	[SEAL]
E. T. ALLING.	[SEAL]
C. C. WELCH.	[SEAL]

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

Acknowledgment.

I, Harlan P. Parmelee, a notary public in and for said county, in the state aforesaid, do hereby certify that J. E. Conduct, Charles L. McIntosh, T. C. Henry, E. T. Alling

Art. of Inc.
D. & S. F.

and C. C. Welch, who are personally known to me to be the persons whose names are subscribed to the annexed and foregoing certificate of incorporation, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this twenty-second day of March, A.D. 1887.

HARLAN P. PARMELEE,

[SEAL]

Notary Public.

Certificate of
Secretary of State.

STATE OF COLORADO, }
SECRETARY'S OFFICE, } ss.

I, James Rice, Secretary of State, of the state of Colorado, do hereby certify that the annexed and foregoing is a full, true and complete transcript of the Certificate of Incorporation of "The Denver and Santa Fé Railway Company," which was filed in this office on the 22nd day of March, A.D. 1887, at 4 o'clock, P.M. and admitted to record.

Certificate of
Incorporation filed
March 22, 1887.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver, this 23d day of March, A.D. 1887.

[SEAL]

JAMES RICE,

Secretary of State.

Recording of
foregoing Certificate
of Incorporation.

THE FOREGOING CERTIFICATE OF INCORPORATION WAS
recorded as follows:—

COUNTY	DATE	BOOK	PAGE
Jefferson	March 23, 1887	43	1
Arapahoe	March 23, 1887	3	93
El Paso	March 23, 1887	79	16
Douglas	March 23, 1887	"Q"	567 & 568
Pueblo	March 28, 1887	52	172

AMENDMENTS

TO FOREGOING

ARTICLES OF INCORPORATION

OF

THE DENVER AND SANTA FE RAILWAY COMPANY.

KNOW ALL MEN BY THESE PRESENTS: and this is to certify and declare that at a special meeting of the stockholders of The Denver and Santa Fé Railroad Company, held at the office of the Company, Denver, Colorado, on May 4th, A.D. 1888, at two o'clock P.M. upon a call of the Stockholders present in person, or by proxy, there were found to be represented at said meeting, fifteen thousand and four (15,004) shares of the Capital Stock, out of a total of fifteen thousand and seven (15,007) shares issued and outstanding.

Certificate of special meeting of stockholders held May 4, 1888.

Stock represented at said meeting.

Due proof having been submitted and entered of record that said meeting had been legally called and convened the following proceedings were had and adopted, viz:

Proof of call of meeting.

It was resolved that the certificate of incorporation of this Company be, and the same is hereby amended, so as to authorize the construction and operation of a branch line beginning at a point on the present Fifteenth Street line near the intersection of the Platte River and Fifteenth Street in East Denver, thence along the Platte River and through the Viaduct Addition and by the most feasible route, and with spurs to a connection with the yards of the Argo, Holden, Omaha and Grant Smelters and other industrial establishments in the northern portion of and north of the city of Denver, and that the President and Secretary be authorized to execute in the name of the Company, the proper certificate of this amendment and file the same as required by law.

Resolution amending Art. of Inc.

New branch authorized.

President and Secretary authorized to file certificate of amendment.

A vote by ballot was taken on the foregoing resolution whereupon it was found that fifteen thousand and four (15,004) shares had voted in the affirmative and none in the negative, and the same was thereupon declared adopted

Stock vote on foregoing resolution.

<p>Amendments to Art. of Inc. of D. & S. F.</p> <p>Certificate of special meeting of stockholders held May 16, 1888.</p> <p>Stock represented.</p> <p>Proof of call of meeting.</p> <p>Resolution amending Art. of Inc. by increasing number of directors.</p> <p>Filing of certificate authorized.</p> <p>Stock vote on foregoing resolution.</p> <p>Attesting clause.</p>	<p>by a vote exceeding three-fourths ($\frac{3}{4}$) in number, and value of the entire number of shares issued and outstanding.</p> <p>It is further certified that at a special meeting of the Stockholders of The Denver and Santa Fé Railway Company, held at the office of the Company, Denver, Colorado, May 16th, A.D. 1888, at 9.30 o'clock A.M. upon a call of the Stockholders present in person, or by proxy, there were found to be represented at said meeting fifteen thousand and four (15,004) shares of the Capital Stock out of a total of fifteen thousand and seven (15,007) shares issued and outstanding.</p> <p>Due proof having been submitted and entered of record, that the said meeting had been legally called and convened, the following proceedings were had and adopted, viz. :</p> <p>It was resolved that the certificate of incorporation of the Company be amended so as to increase the number of Directors from seven (7) to thirteen (13) and that the President and Secretary execute in the name of the Company a certificate of this amendment to be filed as provided by law.</p> <p>A vote by ballot was taken upon the foregoing resolution, whereupon it was found that fifteen thousand and four (15,004) shares had voted in the affirmative and none in the negative, and the same was thereupon declared adopted by a vote exceeding three-fourths ($\frac{3}{4}$) in number and value of the entire shares of the Company issued and outstanding.</p> <p>Witness my hand and the seal of said Company this 16th day of May, A.D. 1888.</p>
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WM. B. STRONG,
President.

THE DENVER & SANTA FE RAILWAY COMPANY.

Attest: E. WILDER,
Secty.
[SEAL]

<p>Acknowledgment.</p>	<p>STATE OF COLORADO, } COUNTY OF PUEBLO, } ss.</p> <p>Wm. B. Strong being first duly sworn deposes and says that he is the Pres't of the Denver and Santa Fé Rwy. Co. ; that he has read and executed the foregoing certificate, and that the facts stated therein are true.</p>
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WM. B. STRONG.

Subscribed and sworn to before me this 19th day of May, Amendments to Art.
of Inc. of D. & S. F.
A.D. 1888.

ALLEN J. BEAUMONT,

[SEAL]

Notary Public.

My Com. expires Jany 28, 1890.

STATE OF COLORADO, Certificate of
Secretary of State.
OFFICE OF THE SECRETARY OF STATE.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

I, JAMES RICE, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Amendment of ARTICLES OF INCORPORATION OF THE DENVER AND SANTA FE RAILWAY COMPANY, which was filed in this office the 25th day of May, A.D. 1888, at 9 o'clock A.M., and admitted to record. Certificate of
amendment filed
May 25, 1888.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver, this 26th day of May, A.D. 1888.

[SEAL]

JAMES RICE,
Secretary of State.

THE FOREGOING CERTIFICATE OF AMENDMENT WAS re- Recording of
foregoing Certificate
of Amendment.
corded in Arapahoe County, Colorado, on May 25th, 1888,
in Book 382, page 450.

AGREEMENTS

FOR PURCHASE OF THE FRANCHISES AND PROPERTY OF
THE DENVER CIRCLE RAILROAD CO.
AND
THE DENVER CIRCLE REAL ESTATE CO.

Feb. 26, 1887.

BOSTON, Feb. 26th, 1887.

WM. B. STRONG, ESQ.,
Prest. A. T. & S. F. Railroad Co.,

Dear Sir:

Offer of J. E. Condict
to Atchison Co.

I hereby offer to sell and transfer to you the following properties, viz:

1st. Three thousand shares of stock of The Denver Circle Railroad Company. The entire stock issue.

2nd. Three thousand shares of stock of The Denver Circle Real Estate Company. The entire stock issue.

3rd. One hundred and twenty-five bonds of \$1,000 each. Total \$125,000 of The Denver Circle Railroad Co. The entire issue.

4th. All the indebtedness of the two companies named above is to be paid, and the properties to be delivered free and clear.

5th. The property of The Golden and South Platte Railway and Telegraph Co., including Depot Block in Golden.

6th. Four hundred acres Coal & Mineral land contiguous to South Golden.

The consideration to be paid to me for the transfer to you of the above properties to be the sum of eight hundred thousand dollars, payable, one half in cash and one half in bonds of the Atlantic & Pacific Railway Co. guaranteed by the A. T. & S. F. R.R. Co. and the St. L. & S. F. Ry. Co.

I am,

Very truly yours etc.,

J. E. CONDUCT.

Acceptance of
foregoing offer.

The above proposition is accepted.

WM. B. STRONG, *Pl.*
A. T. & S. F. R.R. Co.

BOSTON, Feby. 26, 1887. Feb. 26, 1887.

W. B. STRONG, Esq., President etc.

Dear Sir:

In accordance with letter to you of even date herewith, I am prepared to deliver to you on account of said proposition the following property, viz:

Proposition of
J. E. Condict as to
delivery of franchises
and property of
D. C. R. R. Co., and
D. C. R. E. Co.

1st. Deed of all "The Denver Circle Railroad" and its appurtenances.

2d. 101,000 dollars of the bonds of The Denver Circle Railroad Co.

3d. 2083 shares stock of the Denver Circle Railroad Co.

4th. 2500 shares stock of The Denver Circle Real Estate Co.

5th. 75000 dollars mortgage bonds The Denver Circle Real Estate Co.

6th. 12000 dollars Receivers Certificates The Denver Circle Railroad Co.

The above property and transfers to be made to you on the payment of Two Hundred and Seventy-five Thousand Dollars in Bonds of the Atlantic and Pacific Railroad, and the sum of Three Hundred and Fifty Thousand dollars in cash.

On the delivery of the above property to you the Receiver of The Denver Circle Railroad Co. is prepared to receive such instructions from you as you may wish to give, regarding the holding of the property for your interest.

The amount Bonds Stock &c. remaining to be delivered after the above transfers are made are as follows, viz:

24000 dollars of the bonds of The Denver Circle R.R. Co.

917 shares of stock of The Denver Circle R.R. Co.

500 shares of Stock of The Denver Circle R.R. Co.

Deed for coal tract 400 acres near Golden.

The property of The Golden & So. Platte Ry. & Tel. Co.

The above property to be delivered on payment to me of Seventy-five Thousand Dollars in bonds of the A. & P. R.R. Co. and Fifty Thousand dollars in cash. The remaining sum of Fifty Thousand Dollars payable in the A. & P. R.R. bonds to be paid to me on the filing of Articles of Incorporation under the Laws of Colorado giving the right to lay a stand-

The D. & S. F. Ry. Co.

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ard gauge railway in the city of Denver on the route hitherto
used by The Denver Circle R.R. Co.

Very truly yours,

J. E. CONDUCT.

Acceptance of
foregoing proposition.

The above proposition is accepted.

WM. B. STRONG, *Pt.*

A. T. & S. F. R.R. Co.

Feb. 28, 1887.

BOSTON, MASS., February 28, 1887.

Agreement of
J. E. Conduct to
indemnify Atchison
Co. or its assignee
against any damages
to abutters by
construction of road
of D. C. R. R. Co.
through streets of city
of Denver.

In consideration of the purchase made this day by the
Atchison Topeka and Santa Fe Railroad Company, through
me, of the entire outstanding issues of stock and bonds of
The Denver Circle Railroad Company, I hereby undertake
and agree that I will fully and absolutely indemnify and save
harmless the said Atchison, Topeka and Santa Fe Railroad
Company or any corporation to whom it may assign and
make over the said purchase for and on account of any and all
claims for damage against the said Denver Circle Railroad
Company that have accrued to abutting property owners by
reason of the construction of its line of road through the
streets of the city of Denver. The intention hereby being
that the purchase aforesaid by the Atchison, Topeka and
Santa Fe Railroad Company is to be free and clear of all
claims and demands of the character aforesaid, whether the
same be unliquidated or now in judgment.

J. E. CONDUCT.

PURCHASE

BY

THE DENVER AND SANTA FE RAILWAY COMPANY

OF THE FRANCHISES AND PROPERTY OF

THE DENVER CIRCLE RAILROAD COMPANY

AND

THE DENVER CIRCLE REAL ESTATE COMPANY.

The Denver and Santa Fe Railway Company acquired the franchises and property of The Denver Circle Railroad Company by purchase at foreclosure sale and deed under a decree of the Circuit Court of the United States for the District of Colorado. It acquired the property of The Denver Circle Real Estate Company by a deed from that corporation.

Acquisition by
D. & S. F. of properties
of D. C. R. R. Co.
and D. C. R. E. Co.

The Denver Circle Railroad Company was created under the laws of the State of Colorado by Articles of Incorporation filed on November 16, 1880. It received grants of rights of way from the city of Denver and from the County Commissioners of Arapahoe County. On January 1, 1882, it made a mortgage to the Farmers Loan and Trust Company of New York to secure its first mortgage bonds limited to one million dollars, and not to exceed twenty thousand dollars per mile. The Company failed to pay the interest on these bonds and the road was sold under foreclosure proceedings instituted by the Farmers Loan and Trust Company, and purchased by The Denver and Santa Fe Railway Company.

D. C. R. R. Co.

The Denver Circle Real Estate Company was created under the laws of the State of Colorado by Articles of Incorporation filed on January 27, 1882. On March 1, 1884 this Company made a mortgage of its lands to H. J. Aldrich,

D. C. R. E. Co.

Trustee for the Travellers Insurance Company, to secure seventy-five thousand dollars lent to it by said Insurance Company, and represented by fifteen First Mortgage Real Estate Notes of five thousand dollars each. These notes were duly paid with interest, and on May 11, 1887 the said mortgage was discharged. On May 14, 1887 The Denver Circle Real Estate Company conveyed all its lands to The Denver and Santa Fe Railway Company, an error in the said deed being corrected by a further conveyance made on October 24, 1888.

ARTICLES OF INCORPORATION

OF

THE DENVER CIRCLE R.R. CO.

STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE.Certificate of
Secretary of State.UNITED STATES OF AMERICA, }
STATE OF COLORADO, } SS.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Incorporation of The Denver Circle Railroad Company which was filed in this office the Sixteenth day of November, A.D. 1880 at 3.45 o'clock P.M. and admitted of record.

Certificate of Inc.
filed Nov. 16, 1880.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Thirteenth day of September, A.D. 1892.

E. J. EATON,
Secretary of State.

By G. W. TEMPLE,
Deputy.

[SEAL]

CERTIFICATE OF INCORPORATION.

KNOW ALL MEN BY THESE PRESENTS: That we John W. Knox, William A. H. Loveland George Tritch and Henry D. Perky all residents of the City of Denver County of Arapahoe and State of Colorado, and Henry Hill of the City of Keokuk, County of Lee and State of Iowa, have associated ourselves together as a company under the name and style of The Denver Circle Railroad Company for the purposes of becoming a body corporate and politic under and by virtue of the laws of the State of Colorado and in accordance with the provisions of the laws of said State we do hereby make execute and acknowledge in duplicate this

Names of
incorporators.

Art. of Inc.
D. C. R. R. Co.

certificate in writing of our intention so to become a body corporate under and by virtue of said laws —

Corporate name.

FIRST.—The corporate name and style of our said company shall be "The Denver Circle Railroad Company."

Objects of Corporation
and authorized lines.

SECOND.—The objects for which our said company is formed and incorporated are for the purpose of locating, constructing owning, operating and maintaining a single or double track three feet standard narrow gauge railroad with all the necessary side tracks, switches and turn outs from and in the city of Denver in the County of Arapahoe and State of Colorado, thence to a point outside the limits of the said City of Denver and within five miles of the crossing of Lawrence and Sixteenth streets in said City of Denver; thence over the most practicable route, as shall be located around said city of Denver within five miles from the crossing of said Lawrence and Sixteenth streets to an intersection with said route at a point so as to form a continuous belt or track of railroad around said City of Denver, with permission to locate construct and operate branch lines of railroad from and to connections with the main line around said City of Denver; and with the further privilege of constructing, maintaining and operating a railroad of said standard gauge (three feet) to connections with and to be a part of said main line, through said City of Denver and through, along, over, and across the streets and alleys of said City of Denver, in compliance with the ordinances of said City of Denver, and to build all depots station houses shops and other buildings necessary for the operation of said railroad and branches.

Capital stock.

THIRD.—The capital stock of our said company is one million dollars (\$1,000,000) to be divided into ten thousand shares of one hundred dollars for each share.

Term of corporate
existence.

FOURTH.—Our said company is to exist for the term of fifty years from the date hereof.

Directors.

FIFTH.—The affairs and government of our said company shall be under the control of and vested in a board of directors consisting of five persons and the directors for the first year of the existence of said company shall be John W. Knox William A. H. Loveland, George Tritch Henry D. Perky and Henry Hill.

Principal office and
place of business.

SIXTH.—The principal office of said company shall be at Denver in the State of Colorado and the principal business

of said Company shall be carried on in the County of Arapahoe State of Colorado.

Art. of Inc.
D. C. R. R. Co.

SEVENTH.—Said company purpose carrying on a part of its said business beyond the limits of the State of Colorado to wit: in the State of New York and the office of the company in said State shall be located in the City of New York and County of New York.

New York office of the
company to be in the
city of New York.

EIGHTH.—The directors of said company shall have power to make such prudential bylaws as they deem proper for the management of the affairs of our said company not inconsistent with the laws of the said State of Colorado or of the laws of the United States, for the purpose of carrying on all kinds of business within the objects and purposes of said company and to appoint and elect such officers as are necessary for the successful prosecution of said work.

Directors may make
by-laws.

IN WITNESS WHEREOF the undersigned have hereunto set their hands and seals this 16th day of November A.D. 1880.

Attesting clause.

JOHN W. KNOX.	[SEAL]
WILLIAM A. H. LOVELAND.	[SEAL]
GEORGE TRITCH.	[SEAL]
HENRY D. PERKY.	[SEAL]
HENRY HILL.	[SEAL]

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Acknowledgment.

On this 16th day of November A.D. 1880 before me Robert H. McMann a Notary Public in and for the County aforesaid in the State aforesaid personally came and appeared, John W. Knox, William A. H. Loveland, George Tritch, Henry D. Perky and Henry Hill who are personally known to me to be the persons whose names are subscribed to the foregoing instrument in writing, and then acknowledged the execution thereof as their free act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal.

[SEAL] ROBERT H. McMANN,
Notary Public.

Endorsed,
DENVER CIRCLE RAILROAD COMPANY.

The D. & S. F. Ry. Co.

354

Art. of Inc.
D. C. R.R. Co.

STATE OF COLORADO, }
SECRETARY'S OFFICE, } SS.

Filed in office of
Secretary of State.
Nov. 16, 1880.

Filed Nov. 16, 1880 3 o'clock 45 Min P.M.

N. H. MELDRUM
Secretary of State.

Recorded Book 4 Page 162

Certificate of
recording of foregoing
Certificate of Inc.
in Arapahoe County.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } SS.

I, A. B. McGaffey, County Clerk and Recorder of Arapahoe County, Colorado, do hereby certify that the Articles of Incorporation of The Denver Circle Railroad Company were filed in my office on the 19th day of November, A.D. 1880, and were duly recorded in Book No. 1 Incorp. at page No. 175 of the records of my office.

WITNESS my hand and official Seal this 16th day of September, A.D. 1892.

[SEAL]

A. B. MCGAFFEY,
County Clerk and Recorder.

W. R. PRINN,

Dep.

ORDINANCE OF CITY OF DENVER

GRANTING RIGHT OF WAY TO THE DENVER CIRCLE RAIL-
ROAD COMPANY.

ORDINANCE No. 4, 1881.

AN ORDINANCE GRANTING PRIVILEGES AND THE RIGHT OF WAY ACROSS AND OVER CERTAIN STREETS ALLEYS AND PUBLIC GROUNDS IN THE CITY OF DENVER TO THE DENVER CIRCLE RAILROAD COMPANY.

Be it enacted by the City Council of the City of Denver,

SECTION 1. That the Denver Circle Railroad Company be and the same is hereby authorized to locate construct, maintain, and operate a single and double track railway and telegraph line, with all necessary side-tracks, turnouts and switches along the following route, when the same runs across public streets, public grounds highways or alleys, provided that no side-tracks switches or turnouts shall be laid on the street crossings.

D. C. R. R. Co.
authorized to
construct and
maintain a single or
double track railway
and telegraph line.

SECTION 2. That said route is as follows: Commencing at a point in block (243) two hundred and forty-three in the West Division of the City of Denver, and running thence in a southerly direction intersecting the street lines about as follows to wit: The east line of (13th) Thirteenth street, two hundred and eighty-two feet (282) from the South line of Larimer street the south line of Lawrence street two hundred and fifty-five (255) feet, east from the east line of Twelfth street the North line of Curtis fifty-nine (59) feet, east from the east line of Twelfth street, the south line of Curtis street nineteen feet east from the east line of Twelfth street the east line of Twelfth street forty (40) feet from the South line of Curtis street the west line of Twelfth street two hundred and ten (210) feet south of the south line of Curtis street, the north line of Champa street one hundred and ninety-five (195) feet east from east line of Eleventh (11th) street, the south line of Champa street one hundred

Authorized route.

Franchise granted by
City of Denver to
D. C. R. R. Co.
Authorized route.

and sixty-nine (169) feet east from the east line of Eleventh street.

SECTION 3. From the intersection with the south line of Champa street mentioned in section 2 of this ordinance, thence continuing south-eastward through blocks thirteen (13) and fourteen (14) of the West Division of the City of Denver, along the northeast side and clear of the alleys in said blocks crossing Stout street, to an intersection with the north line of Colfax Avenue, near the Alley in Block fourteen (14).

SECTION 4. From the point of intersection of line described in section three (3) of this ordinance with the north line of Colfax Avenue thence continuing southeastward through Witters addition, J. W. Smith's addition and Elmwood addition crossing the several street lines about as follows, to wit: The east line of Santa Fe street one hundred feet south from the south line of Colfax Avenue the north line of Capitol street one hundred and ten (110) feet, east from the east line of Santa Fe street, the south line of Capitol street one hundred and twenty-eight (128) feet east from the east line of Santa Fe street, entering Willow lane at a point about seventy (70) feet north from the north line of Olive street, and continuing south through said Willow lane leaving the same and crossing its east line about one hundred and fifty (150) feet south from the south line of Pine street, hence continuing southeastward crossing the several street lines about as follows: The north line of Deer street One hundred and six (106) west from the west line of Water street, the south line of Deer street eighty-one (81) feet west from the west side of Water street, the west line of Water street two hundred and fifty feet (250) north from the north line of Moose street, the north line of Moose street six feet (6) east from the east line of Water street, the south line of Moose street thirty (30) feet east from the east line of Water street, the west line of south Twelfth street one hundred and five (105) feet north from the north line of Buffalo street, the east line of south Twelfth street, seven (7) feet north from the north line of Buffalo street the north line of Buffalo street, eight (8) feet east from the east line of south Twelfth, the south line of Buffalo street sixty feet east from the east line of south Twelfth street, the west line of Antelope street

three [hundred] (300) feet south from the south line of Buffalo street, the east line of Antelope street three hundred and ninety feet (390) south from the south line of Buffalo street the north line of Bear street seventy-five (75) feet east from the east line of Antelope street, the south line of Bear street one hundred and twenty (120) feet east from the east line of Antelope street; the north line of Martin street at the west line of South Thirteenth street the east line of South Thirteenth street fifty-seven (57) feet south from the south line of Martin street; the North line of Carson street at or near the south-east corner of Elmwoods addition, and crossing said Carson street at that point, granting the privilege of crossing all alleys intersected by the lines described in section 2, two, three (3) four (4) of this ordinance.

Franchise granted by
city of Denver to
D. C. R.R. Co.

Authorized route.

SECTION 5. From the intersection of line described in section 4, four of this ordinance, with the centre line of Pine Street, and following said Willow lane south to the south boundary of Witters addition, and thence south through Clarke street to its terminus in Sumners second addition.

SECTION 6. That when said company adopts one of the lines leading southward from Pine street, as described in section four (4) and five (5) of this ordinance such adoption shall work a forfeiture of the right to use the other.

SECTION 7. That said company may construct on and over such other parts of said line as they may now own or may hereafter acquire, as many tracks, turnouts, switches, depots, warehouses, machine shops and other structures for railroad purposes as it may deem proper and expedient, provided that the right of way herein described shall be used for the purposes herein set forth and none other, and the said company shall not grant to any other railroad company the right to use any part of said right of way.

Tracks, turnouts,
switches, depots, and
other structures.

The right of way to
be used only for the
purposes named, and
no right therein to be
granted to any other
R.R.Co.

SECTION 8. That the right to use the right of way and privileges herein granted, depends upon the construction of said railroad over said right of way or so much thereof as said company may elect to use, within one year from the date hereof provided said company build to a point outside city limits within said time.

Railroad to be
constructed within
one year.

SECTION 9. That said company its successors or assigns are authorized to operate said railroad by steam power. The privileges hereby granted however shall be enjoyed, subject

Authorized to use
steam power.

Franchise granted by
City of Denver to
D. C. R. R. Co.

Culverts for gutters at
street crossings.

Tracks to be on the
grade established by
the city.

R. R. Co. to file bond
for \$30,000 to
indemnify city
against damages.

Approved Jan. 28, 1881.

to all general ordinances that now are or may hereafter be in force concerning railroads in the City of Denver.

SECTION 10. That the said railroad track shall build culverts for the gutters at street crossings when directed by the City Council. The character of such work shall be the same as provided for by general ordinances for that portion of the City of Denver, and said company shall grade said road and the approaches thereto and plank the crossings on said streets, at such time or times, and in such manner as may be directed by the City Council, the work to be done under the direction of the City Engineer.

SECTION 11. That the said railroad company shall construct its railroad tracks on the grade established or to be established by the City of Denver on and across said streets. On application of the said railroad company the City Engineer shall designate the grade upon all streets where the grade is not already established.

SECTION 12. That the said railroad shall before operating its railroad within the limits of the City of Denver, file its bond in the sum of thirty thousand dollars (\$30,000) with the City Clerk to be approved by the City Council, conditioned that it hold the City harmless from any and all damages it may sustain by reason of the operation of its railroad within the City of Denver.

Passed by the City Council of the City of Denver and approved by me this 28th day of January A.D. 1881.

On motion Council adjourned.

R. SOPRIS,
Mayor.

Attest :

H. P. PARMALEE,
City Clerk.

Certificate of City
Clerk.

I hereby certify that the above and foregoing is a true and correct copy of an Ordinance now of record in this office being Ordinance No. 4 of 1881.

J. J. VEEKREY,
City Clerk.

September 13th, 1892.

ACCEPTANCE OF FOREGOING ORDINANCE.

EXTRACT FROM THE RECORDS OF THE DENVER CIRCLE
RAILROAD CO.

January 29th, 1881, 12 M. Jan. 29, 1881.

Meeting of Board of Directors of the D. C. R.R. Co. at the office of the Company. Present Mess. Tritch, Loveland, Knox and Perky. The following resolution was offered.

D. C. R.R. Co.
Directors' meeting.

"Be it Resolved, that the ordinance granting the right of way to the Denver Circle Railroad Company by the City Council of the City of Denver, through certain portions of said City of Denver, as fully appears in said ordinance passed by the said City Council Jan'y 28th A.D. 1881 be, and the same is hereby accepted."

Resolution accepting
foregoing ordinance of
City of Denver.

On motion of Mr. Loveland the resolution was adopted unanimously, and the Secretary ordered to file the same with the Clerk of City Council.

Secretary ordered to
file foregoing
resolution with clerk
of City Council.

Meeting adjourned.

H. D. PERKY,
Sec'y.

GRANT OF RIGHT OF WAY
BY
COUNTY COMMISSIONERS OF ARAPAHOE
COUNTY
TO
DENVER CIRCLE R.R. CO.

Jan. 29, 1881.

DENVER, JAN. 29, 1881.

Proceedings of
meeting of Board
of County
Commissioners
of Arapahoe County.

The Board of County Commissioners of Arapahoe County met this day in special session pursuant to a call of the chairman there being present

H. D. Steele, Chairman of the Board,
J. M. Brown, J. C. Kuner, Wolfe Londoner & James A. Shreve, Commissioners.

Wm. B. Mills, County Attorney,
W. C. Lothrop, County Clerk.

The chairman stated that he had called a meeting of the Board to consider the petition of The Denver Circle Railroad for a right of way and also to transact such other business as may come before the Board.

The petition of The Denyer Circle Railroad praying for right of way through Wyckoff Street which was heretofore on the 7th day of January 1881 filed before the Board was on motion taken up for consideration.

E. H. Kellogg Chief Engineer of said Company appeared before the Board and presented a paper signed by John L. Dailey, Wm. M. Dailey, A. L. Peabody and W. H. Tuttle persons owning property along the line of Wyckoff street consenting to the granting of the right of way to the said Circle Railroad Company and on motion the said paper was ordered on file. Mr. Kellogg stated that the City had granted to said Company the right of way through the streets and alleys leading to said Wyckoff street. Mr. Londoner offered the following.

Whereas The Denver Circle Railroad Co. has heretofore presented its petition to this Board and which petition is as follows :

TO THE HONORABLE BOARD OF COMMISSIONERS OF ARAPAHOE COUNTY:

Petition of
D. C. R.R. Co.

Gentlemen:

Your petitioner The Denver Circle Railroad Company respectfully represents, That it is a Corporation duly organized under the laws of the State of Colorado for the purpose of constructing and operating railroads in said state,

That said Company is desirous of procuring the right of way for a single or double track on and along Wyckoff Street from its initial point or northern end to its southern terminus on which to construct its railroad and telegraph lines* also the privilege of crossing any county roads or public highways under the jurisdiction of your honorable body which may be intersected by its lines, and asks the honorable Board for such privileges.

THE DENVER CIRCLE RAILROAD COMPANY.

E. H. KELLOGG,
Engineer.

And whereas the owners of the premises affected by the laying of said railroad along Wyckoff St. with one exception have given their consent in writing to laying the said railroad as prayed for in said petition,

And whereas it is believed that the railway of said Circle Railroad will be a public improvement of great benefit to the people of this County, *therefore be it Resolved* that the right of way be and is hereby granted to said Denver Circle Railroad Co. to lay a single or double track on and along Wyckoff Street from its initial point or northern end to its southern terminus on which to construct its Railroad and Telegraph lines.

Grant of right of way.

This grant is made upon the express conditions following to-wit: that said Denver Circle Railroad Co. shall commence the construction of its said Railroad within one year from this date, and shall fully complete the same within 18 months from this date over and along the lines of said Wyckoff Street or so much thereof as it shall elect to occupy. That the said Denver Circle Railroad shall never sell, assign, or transfer the franchise or privilege hereby granted to any other person or company or corporation without the consent of the County of Arapahoe.

Conditions of grant.

Grant of right of way
by Arapahoe County
to D. C. R.R. Co.
Conditions of grant.

That if at any time said Railroad shall cease to be used as such or shall from any cause forfeit its charter or its charter shall cease or determine then and in every such case the right of way hereby granted shall also cease and determine and the same shall revert to the County of Arapahoe.

That said Company shall also in all cases where said Railroad shall cross any public highway of this County it shall cross the same on the grade of such public highway so crossed, except the same shall be otherwise changed by and with the consent of the Board of County Commissioners and shall make and maintain all necessary or needful approaches to such crossing or crossings and keep the same in good repair at all times, and shall also plank the crossings of said railroad at all such crossings and shall also build, construct and maintain boxes or culverts for the carriage of water in all ditches crossed by said railroad.

That the said Railroad Co. shall not build nor establish switches or side tracks across any public highway intersected by said railroad and on motion the resolution was unanimously adopted. A written statement signed by James McNasser relative to the proceedings of the Board heretofore had in the matter of laying out a County road on the petition of F. J. Ebert et al. (said road running from the termination of 31st street in the City of Denver across the Platte River and connecting with County road near Argo) was presented and read to the Board and on motion said statement was referred to the County Attorney for his report thereon.

On motion the Board adjourned.

W. C. LOTHROP,
County Clerk.

Certificate of County
Clerk and Recorder.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

I, A. B. McGaffey, County Clerk and Recorder in and for said County, in the State aforesaid do hereby certify that the above and foregoing is a true correct and complete transcript and copy from the Record of proceedings of Board of County Commissioners of Arapahoe County in book 5 at page 17.

Witness my hand and official seal this 13th day of September A.D. 1892.

[SEAL]

A. B. MCGAFFEY,
County Clerk and Recorder.
W. R. PRINN, *Dp.*

MORTGAGE

OF

THE DENVER CIRCLE RAILROAD COMPANY

TO

FARMERS LOAN AND TRUST COMPANY.

FILED FOR RECORD AT 1.45 O'CLOCK P.M. MARCH 14, 1882.

W. C. LOTHROP, *Recorder.*

This Indenture made and entered into this first day of January A.D. 1882 by and between the Denver Circle Railroad Company hereinafter called the Railroad Company a body corporate duly incorporated and existing under and by virtue of the laws of the State of Colorado party of the first part and the Farmers Loan and Trust Company hereinafter called the Trust Company a body corporate duly incorporated and existing under and by virtue of the laws of the State of New York party of the second part, whereas, the Railroad Company having been duly incorporated and organized according to the laws of the State of Colorado and having one of its principal business offices in the City of New York has under and according to its articles of incorporation located and commenced to construct its line of railroad from a central point in the City of Denver as in its articles of incorporation to which reference is hereby made is fully set forth and described and proposes to complete the construction of such railroad and railroads, and to equip and maintain the same and desires to borrow money for the purpose of providing for the construction, equipment and maintenance thereof and whereas at a meeting of the stockholders of the Railroad Company called for such purpose and legally held on the Fifth day of May A.D. 1881, at the City of Denver, the following resolution was passed namely:

RESOLVED that the Railroad Company be and is hereby authorized to execute a mortgage or Trust Deed of all the property, rights and franchises, to the amount of one Million

Jan. 1, 1882.

Parties.

Proposed construction and equipment of its road by R. R. Co. and desire to borrow money for said purpose.

Resolution of stockholders authorizing mortgage.

Mortgage of
D. C. R.R. Co.

Dollars in the whole and further not to exceed the sum of Twenty Thousand Dollars per mile of extensions of said railroad in the whole, and the said railroad Company is authorized to issue its bonds therefor secured by a mortgage to be duly executed by the President of said Railroad Company under its Corporate seal to the Farmers Loan and Trust Company,

Authorization by
Directors of issue of
bonds.

AND WHEREAS, at a meeting of the Directors of the Railroad Company called for such purpose and legally held on the Fifth day of May A.D. 1881 at the City of Denver the following resolution was passed, namely,

Form of bond.

RESOLVED that the President, Secretary and Treasurer of said Company be and they are hereby directed to prepare and issue one thousand bonds of the denomination of one thousand dollars each in the words and figures following,— \$1,000. United States of America, State of Colorado. The Denver Circle Railroad Company M. First Mortgage M. Six per cent. Thirty year Gold bond The Denver Circle Railroad Company acknowledges itself indebted to The Farmers Loan and Trust Company of New York or bearer in the sum of One Thousand Dollars United States Gold Coin of the present standard, which sum it promises to pay to the said Trust Company or bearer on the first day of January, A.D. 1912, at the office or agency of said Railroad Company in New York with interest thereon in like Gold Coin at the rate of six per cent. per annum payable semi-annually at said office or agency free of all United States or State tax or taxes in the first days of January and July in each year upon the surrender of the proper annexed coupons. If default shall be made in the payment of the semi-annual interest on this bond for six months from the date it becomes due then without demand or notice the whole principal thereof shall become due and payable and may at once be enforced against this Company or its successor or successors. This bond is one of a series of one Thousand bonds of like tenor and date, numbered consecutively from one to one thousand both inclusive and amounting in the aggregate to one million dollars, which are secured by mortgage or deed of trust of even date herewith by The Denver Circle Railroad Company of all its franchises, rights, privileges and properties belonging thereto, or which may be hereafter

acquired which mortgage or deed of trust is duly executed and delivered by the said Railroad Company to the said The Farmers Loan and Trust Company as Trustee, and said mortgage is a first lien on all the property therein described. This bond shall not be valid until the certificate hereon endorsed shall be signed by said Trustee or its successor or successors.

Mortgage of
D. C. R. R. Co.
Form of bond.

This bond may be registered at the office of the railroad Company or at its agency in the City of New York at the option of its holder and thereafter unless at any time registered payable to bearer will be only payable to such person as on the bond shall appear from time to time to be the last duly registered transferee or owner thereof. The registry of this bond as above shall not restrain the negotiability of the coupons by delivery.

IN WITNESS WHEREOF said Company has caused this bond to be signed by its President and Secretary and its corporate seal to be hereto affixed this — day of — A.D. 1882 (L.S.) — President, — Secretary.

Form of Coupon annexed of said bonds, \$30. The Denver Circle Railroad Company will pay to the bearer at the office or agency of the Company in the City of New York on the first day of — Thirty Dollars in United States Gold Coin, free of United States or State taxes for six months interest on bond No. — Treasurer. Form of Trustees Certificate endorsed on said bonds. The Farmers Loan and Trust Company hereby certifies that this bond is one of the bonds described in the within mentioned mortgage. The Farmers Loan and Trust Company Trustee by — President. And the President and Secretary are further directed to prepare and execute a mortgage or Trust Deed of all or any part of the property rights and franchises of said Railroad Company to The Farmers Loan and Trust Company at the City of New York in trust for holders of said bonds. And whereas all the bonds have been or will be duly made and delivered to the railroad Company party of the first part and are in form as set forth in the said resolution of the said board of Directors last above mentioned and above recited in full, Now Therefore This Indenture witnesseth, that the Railroad Company party of the first part in consideration of the premises and of One dollar to it in hand

Authorization of
mortgage.

Granting clause.

Mortgage of
D. C. R.R. Co.

Description of
railroads and
property mortgaged.

paid at or before the ensembling and delivery of these presents, the receipt whereof is hereby acknowledged hath granted, bargained, sold and assigned, transferred, set over, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, assign, transfer, set over, release convey and confirm unto the said Trust Company party hereto of the second part and its successor or successors in trust herein and hereby created and declared all the right title and interest which the Railroad Company now has or may at any time hereafter acquire in and to all and singular the Railroad or Railroads of the party of the first part in and from the City of Denver, County of Arapahoe in the State of Colorado, and in around and from the said City of Denver and in said State of Colorado and also all other Railroads belonging to or hereafter to be constructed or acquired by the Railroad Company together with all the lands, tracks lines, rails, bridges, ways, buildings, piers, wharves, structures, erections, fences, walls, fixtures, franchises, privileges and rights of the Railroad Company, and also all locomotives, engines, tenders, cars, carriages, tools, machinery, manufactured and unmanufactured material coal, wood and supplies of every kind, belonging or appertaining to the Railroad Company, Also all the tolls income issues and profits arising out of the said property and all right to receive and recover the same, also all estate, right title and interest of the party of the first part in and to any and all real estate belonging to the said party of the first part, Also all lease hold lands with the buildings thereon erected, also all real estate, right title and interest of the said Railroad Company in any other corporation it being intended hereby to convey to the trust company party of the second part under and by virtue of the aforesaid description all and any right, title and interest of the Railroad Company, in and to the premises above mentioned and described whether as lessees or as holders of the stock or bonds of any other corporation, association or organization or however such interest of the Railroad Company may be regarded in law or in equity as subsisting or inhering in the aforesaid premises or any part thereof it being the true intent and meaning of these presents that the said Railroad Company shall and doth convey to the said Trust Company all and all manner of franchise of every description however described

and wherever situate, all and all manner of real estate and interest therein wherever such real estate may be situate and all and all manner of personal property of whatever nature and description the same may be at the date of these presents owned or possessed by the said Railroad Company or which may at any time hereafter during the continuance of this trust be acquired by the said Railroad Company and also all choses in action of every kind and description including bills receivable, book accounts, traffic balances, all books of record and accounts of every kind and description, all papers, maps, inventories, and documents in any wise referring or relating to the property or the franchises hereby conveyed and also all franchises and property and all personal rights or interest in any franchise or property of every kind or description real, personal or mixed, and wherever the same may be situate that may at any time before or after the date of this indenture be acquired by or for the said Railroad Company all of which it is hereby covenanted shall enure by way of accretion to the benefit and advantage of the said Trust Company as Trustee and by way of further and better security.

Mortgage of
D. C. R.R. Co.

To have and to hold all and singular the above described premises to the said Trust Company party of the second part its successor or successors in the trust hereby created to the only proper use and behoof of the said Trust Company its successor or successors in trust nevertheless for the uses and purposes hereinafter expressed namely: First, to secure the payment of the bonds of the Railroad Company party of the first part to be issued as herein recited for the use and benefit of the person or persons firm or firms bodies politic or corporate who shall at any time become the purchasers or holders, owners or bearers of either or any of the said bonds subject to the said terms provisions and stipulations in the said bonds contained which bonds however shall be equal in priority of lien whenever the same shall have been issued as herein provided.

Habendum clause.

SECOND. Until default shall be made in respect of something herein required to be done or performed by the Railroad Company party of the first part or until by the express condition of this indenture the right of entry shall have accrued to the Trust Company party of the second part, the

Possession of
mortgagor until
default.

Mortgage of
D. C. R. R. Co.

Railroad Company shall be permitted to possess, operate, manage, and enjoy all and singular the mortgaged premises including the said railroad or railroads with their appurtenances and equipments and to take and use the rents, incomes profits, tolls and issues thereof in the same manner and to the same effect as if this indenture had not been made.

In case of default in
payment of interest
continued for six
months, Trustee may
enter and take
possession.

THIRD. In case default in the payment of the interest on any of the bonds secured by this indenture shall be made and shall continue for the space of six months and such payment shall have been duly demanded then the Trust Company, party of the second part if it shall elect so to do may and if requested in writing by the holders of one-half of the Bonds secured hereby and then outstanding shall enter upon all and singular the mortgaged premises and every part thereof and possess, operate, use and enjoy the same and upon request being made the Railroad Company shall immediately surrender possession of all and singular the mortgaged premises and property of every sort and description to the Trust Company. It shall also be lawful for the Trust Company in case any such default shall be made and continue as aforesaid and payment shall be demanded to sell and dispose of all the premises and property of every sort and description hereby conveyed at Public Auction in the city of New York or at such other place as the Trust Company may designate having first given notice of the place and time of such sale by advertisement published not less than once a week for three months next preceding the time specified for the sale in at least one newspaper published in the City of Denver, in the State of Colorado, and in at least one newspaper published in the City of New York, and to adjourn the said sale from time to time by announcement at the time and place advertised without further advertisement and to make and deliver to the purchaser or purchasers good and sufficient deed or deeds in fee simple which sale shall be a perpetual bar both in law and equity against the said Railroad Company and all other persons lawfully claiming the above described premises and property or any part thereof, or any lien upon or any interest in the same through or from the said Railroad Company and after deducting from the proceeds of such sale just allowances for all expenses thereof including reasonable attorneys and counsel fees and

Power of sale.

any other necessary expenses incurred by the Trustee in executing its trust including its own reasonable compensation to apply the proceeds to the payment of the principal of such of the aforesaid bonds as may be at the time outstanding and unpaid whether the same shall have or shall not have previously become due and of the interest which shall at that time have accrued on the principal and be unpaid without discrimination or preference but ratable to the aggregate amount of such unpaid principal and such accrued and unpaid interest and if after satisfaction thereof as aforesaid a surplus shall remain to pay the same over to the Railroad Company.

FOURTH. In case default in — payment of the interest on any of the bonds secured by this indenture shall be made and shall continue for the space of six months and such payment shall have been duly demanded the Trust Company, party of the second part if it shall elect so to do may if requested in writing by the holders of one half of the bonds secured thereby and then outstanding shall apply to any Court or Courts having proper jurisdiction in the premises for foreclosure and sale of the mortgaged premises and property and for the appointment in the meantime of a receiver of the mortgaged premises under this indenture or (as an alternative of entry under the right in that behalf hereinabove given) for the appointment of such a receiver without applying for a foreclosure and sale of the mortgaged premises and in either case the Trust Company shall have the right to nominate and designate the person to be appointed receiver and so far as lawfully may be done to control and direct the general course of the administration of the mortgaged premises by and on the part of said receiver.

In the event of such right of foreclosure and sale accruing from non payment of interest immediately thereupon the whole amount of the principal of the bonds secured by this indenture and then outstanding shall at the option of said Trust Company become due and payable and this provision expressly declared not to be in the nature of a penalty for a breach of condition or for the non payment of interest but to be a provision which having regard to the nature of the mortgaged premises and the impossibility of the sale thereof in parcels without serious prejudice to all interests and for

Mortgage of
D. C. R. R. Co.

On default in payment of interest continued for six months, Trustee may and on request in writing of holders of one half outstanding bonds shall apply to proper Court for foreclosure and sale and appointment of a receiver.

On accruing of right of foreclosure for nonpayment of interest, Trustee may declare principal due.

Mortgage of
D. C. R.R. Co.

Provisions for
management of
property by Trustee
after entry and
possession.

other reasons is essentially necessary to carry out the objects and purposes of the parties hereto

FIFTH. If the Trust Company party of the second part shall enter upon the premises and take possession control and management thereof under and by virtue of either of the preceding articles it shall apply and administer the net revenue and income from the mortgaged premises during such possession in the discharge and satisfaction of interest or interest and principal secured by this indenture as the same may become due and payable and in due order of priority during such possession, occupation, control and management the Trust Company shall only be liable for the exercise of good faith and reasonable diligence and all expense, loss and damage of every kind and nature growing out of such possession control and management shall to the extent that any liability is incurred thereby constitute a charge upon the mortgaged premises exclusively.

The Trust Company during such possession, control and management shall have free right power and authority to operate and control the railroad hereby mortgaged and to use occupy and possess the mortgaged premises generally according to the rules of good railroad management and may enter into any and all contracts proper ordinary and usual in such cases and charge the same as a lien upon the mortgaged premises and may issue certificates of indebtedness for liabilities of every kind which it may be found needful and judicious to incur which certificate shall constitute a lien upon the premises prior to the bonds secured hereby and the Trust Company generally may do and perform all things in the premises connected with the control and management of the mortgaged property which the Railroad Company itself might do and perform under and by virtue of its powers and practices and the state laws in the state in which the Railroad Company is incorporated had it remained in undisputed possession and control of the premises.

Provisions in case of
appointment of a
receiver.

SIXTH. If a Receiver of the mortgaged premises shall be appointed under the provisions of this indenture all the expenses incident to such appointment including all lawful obligations of said receiver and all expenses incident thereto and generally in the execution of the Trust Company and a reasonable allowance and compensation to the Trust Com-

pany for the services in that behalf shall constitute a lien upon the mortgaged premises prior to the lien of any of the bonds secured by this indenture such receiver shall have power to enter into all contracts and obligations and do all other things ordinarily incident to good railroad management in as full and ample manner as such power would have been possessed by the Railroad Company had it remained in possession of the mortgaged franchises and premises. The net income of the mortgaged premises shall be applied by the receiver under the direction of the Court to the payment of the interest and principal of the bonds secured hereby.

Mortgage of
D. C. R.R. Co

SEVENTH. The right of action under this indenture is vested exclusively in the Trust Company party of the second part Trustee its successor or successors and under no circumstances shall any individual bondholder or any number of individual bondholders have any right to institute an action or other proceedings on or under this indenture for the purpose of enforcing any remedy herein and hereby provided and all actions and proceedings for the purpose of enforcing the provisions of this indenture shall be instituted and conducted by the Trust Company its successor or successors according to their sound discretion without any interference on the part of any individual bondholder or bondholders until and unless the holders of at least one half of all the bonds secured hereby and then outstanding shall unite in requesting in writing the Trust Company its successor or successors to do or refrain from doing any particular act or acts or to pursue or refrain from pursuing any particular line of conduct or policy connected with the enforcement of this security, and in case of such request the Trust Company its successor or successors in the trust hereby created shall confirm its action and policy in regard to the enforcement of the security of this indenture such request or requests so far as may lawfully be done it being hereby expressly provided and declared the holders of a majority of the bonds secured by this indenture and actually outstanding when acting in concert shall have the absolute right to control the time manner and mode of lawfully enforcing the security created by this indenture.

Remedy on default
vested exclusively in
Trustee, and not in
individual
bondholders.

Provisions for control
of Trustee by holders
of majority of bonds.

EIGHTH. In case of any sale of the premises embraced in this mortgage under a decree of any Court having juris-

Trustee may purchase
at foreclosure sale.

Mortgage of
D. C. R R. Co.

diction thereof based upon the foreclosure of this mortgage or in pursuance of advertisement without such decree aforesaid the Trust Company or its successor or successors may in its discretion and is hereby fully authorized to purchase the premises property and franchises embraced herein for the use and benefit of the holders of the outstanding bonds secured by this mortgage and having so purchased said premises, property and franchises the right and title thereto shall rest in the said Trust Company and no bondholder shall have any claim thereto or to the proceeds thereof except for his pro rata share of the proceeds of such purchased premises, property and franchises as represented in a new Company or Corporation to be formed for the use and benefit of the holders of the bonds secured thereby and then outstanding and the Trust Company may take such lawful measures as it may deem for the interest of the said bondholders to organize or procure the organization of a new Company or corporation for the benefit of the holders of the bonds secured by this indenture and then outstanding the said new Company or Corporation shall be organized upon such terms conditions and limitations and in such manner as the holders of a majority of the said outstanding bonds secured by this mortgage shall in writing request or direct and provision may if such majority shall so elect be made in the organization of such new Company for the interests of any or all of the holders of junior obligations of the Railroad Company and for its stockholders and simple contract creditors and the said Trust Company so purchasing shall thereupon reconvey the premises so purchased by them to the said new company or Corporation.

Duties of Trustee in
case of foreclosure
and sale.

NINTH. In case it should become necessary to institute proceedings for the foreclosure and sale of the mortgaged premises the Trust Company party of the second part its successor or successors shall aid, promote and encourage in all lawful ways any plan for the foreclosure and reorganization of the mortgaged property suggested for the benefit and advantage of the holders of bonds secured hereby that it may deem most beneficial for such bondholders, and in case of a sale in pursuance of such proceedings the same shall be conducted under the general control and management of the Trust Company its successor or successors, and the Trust

Company its successor or successors shall receive and distribute the proceeds of sale except as otherwise provided in and by the plan and agreement of foreclosure and reorganization in pursuance of which said sale may be had it being understood and agreed that the said Trust Company its successor or successors shall be guided and controlled in all proceedings for the foreclosure and reorganization of the mortgaged premises by the terms and provisions of any scheme of foreclosure and reorganization which shall receive the consent of the holders of a majority of the bonds secured by this indenture and then outstanding and shall be approved by the said Trust Company.

Mortgage of
D. C. R.R. Co.

TENTH. The Trust Company party of the second part shall be under no obligation to recognize any person or persons firm or corporation as holder or holders, owner or owners of any part of the bonds secured hereby or to do or refrain from doing any act pursuant to the request or demand of any person, firm or corporation professing or claiming to be such holder or holders until such supposed holder or holders shall produce the said bonds and deposit the same with the Trust Company and shall also indemnify and save harmless the Trust Company to its full satisfaction from any and all costs, expenses, outlay and counsel fee and other reasonable disbursements for which it may become liable or responsible on proceeding to carry out such request or demand. Any holder of any of the said bonds may at any time notify the Trust Company that he is such holder and in such case it shall be the duty of the Trust Company so long as such person remains a holder of the said bonds, in case it is regularly served with process in any suit or other proceedings brought against it as trustee under this indenture in any Court to notify such person in writing of the fact, which notice shall be addressed to such bondholder by mail or otherwise at his last known place of residence, such place as he may in such notice specify.

Trustee cannot be
called on to act until
bonds are deposited
and indemnity given.

Provisions as to
notice to bondholders
requesting it to be
notified.

And the Trust Company shall therefore be under no obligation to enter an appearance by counsel or in any way appear in and defend the said suit or other proceedings unless indemnified to its satisfaction for so doing by the said bondholders or some of them or by some other person, it being understood however that the said Trust Company

Mortgage of
D. C. R. R. Co.

shall not be required to notify any such person in any such case provided it shall elect to appear in such litigation without requiring such indemnity and it being further understood that in no case shall the Trust Company be compelled to appear in Court or otherwise by any counsel except such as may be retained by the said Trust Company.

Covenant of further
assurance.

ELEVENTH. The Railroad Company hereby covenants and agrees to and with the said Trust Company that it will from time to time and at all times upon reasonable request make, execute acknowledge and deliver at its own expense all such further acts, deeds conveyances and assurances in the law for the better assuring unto the said Trustee and its successor or successors in the Trust hereby created upon the Trusts and for the purposes herein expressed or intended all and singular the franchise railroads, property, real personal and mixed rights and privileges hereby mortgaged or conveyed in trust or appearing, purporting, or intended now to be so owned or possessed by or vested in the said party of the first part or that may hereafter be acquired or vested in the Railroad Company or by the Trust Company or its counsel learned in the law shall be reasonably advised or required.

Defeasance clause.

TWELFTH. If the Railroad Company shall well and truly pay the sum of money by the said bonds secured hereby and the coupons thereto attached required to be paid by it and shall well and truly keep and perform all the covenants agreements and understanding herein and hereby assumed and required to be kept and performed according to the true intent and meaning of these presents, then and in that case the estate, right, title and interest of the said Trust Company or its successor or successors in the above described property shall cease, determine and become void.

Limitation of liability
of Trustee.

THIRTEENTH. The Trust Company party of the second part and its successor or successors in the trust shall only be responsible for reasonable diligence in the management thereof and shall not be accountable in any case for the act or default of any agent, attorney or employee when such person shall have been selected with reasonable discretion and the Trust Company its successor or successors shall be entitled to be reimbursed and their outlays of every sort or nature by them incurred in the discharge of this trust and

Expenses and
compensation of
Trustee.

to receive a reasonable and proper compensation for any duty they may at any time perform in the discharge of the same. It is further covenanted and agreed by and between the parties hereto, anything herein contained to the contrary (notwithstanding any and all bonds and coupons that be issued under and in pursuance of the provisions of this indenture and to be so issued and held subject to this express proviso) that the Railroad Company after it shall have built and put in operation fifty miles of its completed road and shall have issued all the bonds above provided for in this indenture being at the rate of Twenty Thousand Dollars per mile for the said fifty miles shall have full right and power at any time and such right and power are expressly reserved hereby to make and execute bonds in addition to those above described not to exceed in amount Twenty Thousand dollars for each additional mile of said Railroad as it may build and put in operation beyond the fifty miles above named, which new bonds shall be of the same form and nature and of the same date as the bonds above described and to issue a further mortgage or deed of trust to secure the same in such form and with such covenants conditions and provisions as the Trust Company shall approve, which said bonds so to be issued shall from and after the time of their being so issued be entitled to a lien upon the said mortgaged premises property and franchises hereinbefore described coordinate and equal to the lien of the Bonds issued in pursuance hereof as above set forth. Provided however that no such additional bonds shall in any case be issued unless additional miles of Railroad shall have been actually built and completed beyond the fifty miles above named and then only at the rate of Twenty Thousand Dollars per mile for each additional mile so actually built and completed.

The Chief Engineer shall file his certificate with said Trustee certifying from time to time the number of completed miles of said Railroad and upon such certificate being filed with said Trustee and when directed by the Company he shall sign and deliver bonds as aforesaid not in excess of Twenty Thousand Dollars per mile of completed road, the evidence of which shall be the certificate of the Chief Engineer aforesaid.

Mortgage of
D. C. R R Co.

Provision for
additional issues of
bonds after fifty miles
of completed road
have been built and
put in operation.

Chief Engineer to file
with Trustee from
time to time
certificates of number
of completed miles.

Mortgage of
D. C. R. R. Co.
Attesting clause.

In Testimony Whereof the parties to these presents have caused their respective corporate seals to be hereto affixed and these presents to be signed and attested by their respective officers the day and year first above written.

THE DENVER CIRCLE RAILROAD COMPANY.

By WILLIAM A. H. LOVELAND,
President.

HENRY D. PERKEY,
[CORPORATE SEAL] *Secretary.*

THE FARMERS LOAN AND TRUST COMPANY.

By R. G. RALSTON,
[CORPORATE SEAL] *President.*

Attest :
WM. H. LEUPP,
Sec'y.

Acknowledgment by
R.R. Co.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this fourth day of March A.D. 1882 personally came before me the Denver Circle Railroad Company by W. A. H. Loveland its President and Henry D. Perkey its Secretary who are personally known to me to be the identical persons whose names are subscribed to the foregoing instrument as said President and Secretary and then and there acknowledged the Execution and sealing of said instrument to be their voluntary act and deed and the voluntary act and deed of said Company.

Witness my hand and official seal the day and year first above written.

RODERICK S. OWEN,
[NOTARIAL SEAL] *Notary Public.*

Acknowledgment by
Trust Co.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.

I, Edwin F. Corey a commissioner of deeds for the State of Colorado duly commissioned and qualified and residing in the City and County of New York hereby certify that

The Farmers Loan and Trust Company by R. G. Ralston its President and Wm. H. Leupp its Secretary who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as said President and Secretary appeared before me this day in person and severally acknowledged that they executed the said instrument as the voluntary act and deed of said Company for the uses and purposes therein set forth.

Mortgage of
D. C. R.R. Co.

In Witness Whereof I have hereunto set my hand and affixed my official seal this ninth day of March A.D. 1882.

[COMMISSIONER'S SEAL] EDWIN F. COREY,
Commissioner for the State of Colorado.
Office 54 Wall Street N.Y.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

Certificate of county
clerk and recorder.

I, A. B. McGaffey, County Clerk and Recorder in and for said County, in the State aforesaid do hereby certify that the above and foregoing is a true, correct and complete transcript and copy from the records of my office as the same appears in book 137 at page 381.

Witness my hand and official seal this 14th day of September A.D. 1892.

[SEAL]

A. B. McGAFFEY,
County Clerk and Recorder.
W. R. PRINN, *Depy.*

Circuit Court of U.S. IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE
April Term, 1887. DISTRICT OF COLORADO, SITTING AT PUEBLO. APRIL
TERM, A.D. 1887.

THE FARMERS LOAN AND TRUST
COMPANY,
Complainant,
vs.
THE DENVER CIRCLE RAILROAD
COMPANY,
Defendant.

April 8th.
No. 137.

And thereupon the Court upon consideration of the premises, Orders, declares and decrees :

2. The Court declares and decrees that the mortgage or deed of trust, dated the first day of January, A.D. 1882, executed by the said defendant, The Denver Circle Railroad Company, to the complainant, The Farmers Loan and Trust Company, as Trustee, of which a true copy is annexed to the bill filed in this cause as "Exhibit A," is a valid conveyance of the railroad, franchises and property of the said Corporation therein mentioned for the security of the Mortgage

bonds therein set forth; that the said bonds were duly issued, and the same and the proceeds thereof lawfully disposed of, and that the said deed of trust vested in the said The Farmers Loan and Trust Company, as Trustee, for the purposes therein mentioned, and according to the tenor thereof, a good and valid title to all and singular the property and franchises therein described.

Foreclosure decree
ordering sale of
railroad and property
of D. C. R.R. Co.

3. The Court declares and decrees that the franchises and property conveyed by the said Mortgage or deed of trust of January 1st, 1882, to the said trustee by The Denver Circle Railroad Company, described as near as may be and as described in the said Mortgage are as follows, that is to say: all the right, title and interest which The Denver Circle Railroad Company had on the date of the execution of the said Mortgage, or thereafter at any time acquired and to all and singular the railroad or railroads of the said Company in and from the City of Denver, County of Arapahoe in the State of Colorado, and in, around and from the said City of Denver and in said State of Colorado, and also all other railroads belonging to or thereafter constructed or acquired by the said railroad Company, together with all the lands, tracks, lines, rails, bridges, ways, buildings, piers, wharves, structures, erections, fences, walls, fixtures, franchises, privileges and rights of the said railroad Company, and also all locomotives, engines, tenders, cars, carriages, tools, machinery, manufactured and unmanufactured materials, coal, wood and supplies of every kind belonging or appertaining to the said Railroad Company, also all the tolls, issues and profits arising out of the said property, and all right to receive and recover the same, also all estate, right, title and interest of the said Railroad Company in and to any and all real estate belonging to the said Company, also all leasehold lands, with the buildings thereon erected, and all real estate, right, title and interest of the said Railroad Company in any other Corporations, it being thereby intended to convey to the said Trustee, the Complainant herein, under and by virtue of the aforesaid description all and any right, title and interest of the said Railroad Company in and to the premises above mentioned and described whether as lessees or as holders of the stock or bonds of any other Corporation, association or organization, or however such interest of the Railroad Com-

Foreclosure decree
ordering sale of
railroad and property
of D. C. R. R. Co.

pany may be regarded in law or in equity as subsisting or inherent in the aforesaid premises, or any part thereof, it being the true intent and meaning of the said Mortgage or trust deed that the said Railroad Company did thereby convey to the said Trust Company all and all manner of franchises of every kind and description however derived and wherever situate, all and all manner of real estate and interest therein wherever such real estate may be situate, and all and all manner of personal property of whatever nature and description the same may be, at the date of the said Mortgage owned or possessed by the said Railroad Company, or which might at any time thereafter during the continuance of said trust be acquired; and also all choses in action of every kind and description including bill receivable, book accounts, traffic balances, all books of record and accounts, of every kind and description, all papers, maps, inventories and documents in any wise referring or relating to the property or to the franchises thereby conveyed: also all the franchises and property and all personal rights or interest in any franchise or property of any kind or description, real, personal or mixed, and wherever the same may be situate existing at the date of the said Mortgage or thereafter acquired by or for the said Railroad Company.

And for the purpose of this decree the inventory of the Receiver may be referred to for a more full and detailed description of the Mortgaged premises.

4. The Court declares and decrees that there was a default on the part of the said Railroad Company in the payment of the instalments of interest upon the said bonds issued under the Mortgage aforesaid due and payable according to the tenor thereof on the first day of July, A.D. 1885, and the first days of January and July, A.D. 1886, and the first day of January, A.D. 1887, and that there is due and payable as of the first day of April A.D. 1887, under and by virtue of the said Mortgage the principal sum of one hundred and twenty-five thousand (125,000) dollars, and the further sum of sixteen thousand eight hundred and seventy-five (16,875) dollars, for interest.

5. The Court declares and decrees, that the mortgaged premises cannot be sold in parcels without loss and prejudice to all parties interested therein, and that the nature

and situation of the property is such that the interest of all parties requires that it should be sold as an entirety.

Foreclosure decree
ordering sale of
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6. The Court orders and decrees that the defendant, The Denver Circle Railroad Company pay into the Registry of this Court within fifteen days the amount ascertained and herein declared to be due by the said Company to the holders of the bonds issued under the said Mortgage or deed of trust, to wit: the sum of one hundred and forty-one thousand eight hundred and seventy-five (141,875) dollars, with interest at the rate of six per cent. per annum from the first day of April, A.D. 1887, with the costs in this cause.

7. The Court orders and decrees that in the event of such payment and redemption as above provided for on the part of the defendant, The Denver Circle Railroad Company, this cause stand continued with leave to either party to apply for further orders herein, and that in the meantime all further proceedings be stayed.

8. The Court further orders and decrees that in default of such payment that all and singular the property and franchises of every kind described in the third paragraph of this decree, be sold by one of the Masters of this Court, such sale shall be made at the office of the Denver Circle Railroad Company, in the Cheeseman Block, corner of Seventeenth and Larimer Streets, in the City of Denver, Colorado, and notice of the time and place and the terms upon which the same is to be made shall be given by advertisement thereof in two of the daily newspapers published in the City of Denver, for thirty days prior to the date of such sale.

The said Master shall sell the premises herein directed to be sold to the highest and best bidder for cash or in bonds at an equivalent of the amount of purchase money as would be distributable and payable thereon. And before making the adjudication to the bidder shall demand a deposit of the amount bid accordingly. And in any event the sum of at least six thousand (6,000) dollars of the purchase price shall be paid in cash, for the payment of all expenses connected with this suit, including attorney and counsel fees, as well as any and all advances, expenses and liabilities which may have been made or incurred by the Complainant as well as a just and reasonable compensation for its own services in the premises.

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9. The Court further orders that after such sale the said Master shall at once execute and deliver a proper deed of conveyance of the property aforesaid to the purchaser and thereafter at the next term report his acts and doings in the premises together with the said deed of conveyance for confirmation and approval, and shall thereafter make distribution of the said purchase money among the persons holding the bonds and coupons evidencing the right to such principal and interest without discrimination or preference between them. And if after payment in full of all the said bonds, principal and interest, a surplus of said proceeds of sale shall remain, the said Master shall pay over such surplus as may hereafter be ordered by the Court. And it is further Ordered that the said Master may adjourn any sale to be made under the provisions of this decree by announcement made at the time and place appointed for such sale, and if so adjourning such sale may make the same at the time and place to which the same shall be so adjourned without further notice thereof.

It is further ordered that at such sale the Complainant, its agents and attorneys may become purchasers.

10. It is further ordered that the purchaser at such sale shall take the property aforesaid subject to any and all indebtedness represented by certificates issued by the Receiver herein pursuant to authority given theretofore by this Court, and the purchaser aforesaid shall be charged with the payment thereof, and likewise of any balance which upon settlement of the Receiver's accounts may hereafter be found due and chargeable against the property aforesaid, and the said purchaser shall take the said property also subject to any and all liens that may exist against the same prior or paramount to the Mortgage.

11. It is further adjudged and decreed that by the sale and conveyance to be made as aforesaid of the property and franchises hereinbefore decreed to be sold, the defendant in this action and all persons claiming under it subsequently to the commencement of this action shall after approval thereof be absolutely barred and foreclosed of and from all estate, right, lien, claim and equity of redemption of, in or to, or in respect of said property and franchises so sold and conveyed, and each and every part thereof.

12. The Court further orders and decrees that the Receiver shall remain in possession of the Mortgaged premises until confirmation and approval of the conveyance thereof, with all powers heretofore conferred, and that he keep a correct account of the earnings and income of the premises accruing, after the date of the sale. And if the sale should be confirmed the said Receiver shall deliver the possession thereof to the purchaser, and with all convenient speed make his final report and accounting to this Court.

Foreclosure decree
ordering sale of
railroads and property
of D. C. R.R. Co.

13. The Court further orders and decrees that the Master herein appointed deposit all moneys and bonds coming into his hands under this decree immediately upon the receipt thereof in the First National Bank of Denver to the credit of this cause,

If the sale shall not be confirmed, the amount of purchase money paid by the purchaser shall be refunded without deduction unless the non-confirmation thereof shall be due to the fault of the purchaser, in which event such terms will be imposed as the Court shall think just and proper.

14. The Court further orders and decrees that all equities among the parties to this suit, and all other questions not disposed of or specially reserved in the foregoing decree, or properly arising under the same, or as proper subjects for further directions are reserved.

MOSES HALLETT,
District Judge.

AT PUEBLO, COLORADO,
APRIL 8, 1887.

I, Robert Bailey, Clerk of the Circuit Court of the United States for the District of Colorado, do hereby certify that the above and foregoing is a full, true, and correct copy of the foreclosure decree in the case of The Farmers Loan and Trust Company vs. The Denver Circle Railroad Company, as shown by the Records of said Court.

Certificate of Clerk of
Court.

Witness my hand and the seal of said Court, at Pueblo, in said District, this third day of August, A.D. 1892.

ROBERT BAILEY,
Clerk.

SEAL OF
U.S. CIR. CT.

By MARK L. LUNT,
Deputy Clerk.

DEED

BY

**ANDREW W. BRAZEE, MASTER IN CHANCERY,
OF THE RAILROAD AND PROPERTY OF
THE DENVER CIRCLE RAILROAD COMPANY
TO
THE DENVER AND SANTA FE RAILWAY
COMPANY.**

June 1, 1887.

This indenture, made this First day of June, in the year of our Lord one thousand eight hundred and eighty-seven, between Andrew W. Brazee one of the Masters in Chancery of the United States Circuit Court for the District of Colorado, residing in the City of Denver in said District, of the first part; and the Denver and Santa Fe Railway Company, a corporation created, organized and existing under the laws of Colorado, of the second part:

Recital of decree.

WITNESSETH, that whereas at a term of the United States Circuit Court for the District of Colorado sitting at Pueblo, it was, on the Eighth day of April, 1887, among other things ordered, adjudged and decreed and entered of record by the said Court, in a certain cause then depending in the said Court between The Farmers' Loan and Trust Company, complainant, and The Denver Circle Railroad Company defendant, that the premises, franchises and property mentioned, set forth and referred to in a certain mortgage or deed of trust in the said decree mentioned, which premises, franchises and property are hereinafter more particularly mentioned and described, be sold by one of the Masters of said Court, at the office of The Denver Circle Railroad Company, in the Cheesman Block, corner of Seventeenth and Larimer Streets, in the City of Denver, Colorado, the said Master first giving notice for thirty days

prior to such sale of the time, place and terms of such sale, by advertisement thereof in two of the daily newspapers published in said City of Denver.

Deed under foregoing
decree of railroad and
property of
D. C. R. R. Co. to
D. & S. F. Ry. Co.

AND WHEREAS the said Andrew W. Brazee, Master in Chancery as aforesaid, and party of the first part to these presents, in pursuance of said order and decree of the said Court, did, on the day of the date of these presents, at the said office of The Denver Circle Railroad Company, sell at public auction the said premises, franchises and property together, hereinafter more particularly mentioned and described, having first given notice for thirty days prior to such sale of the time, place and terms of such sale, with a brief description of said premises, franchises and property, as directed by said order and decree; at which sale said premises, franchises and property, hereinafter more particularly mentioned and described, were struck off to the said party of the second part for the sum of one hundred and forty-nine thousand and one hundred and twenty-five dollars (\$149,125.00), that being the highest sum bidden therefor, and the said party of the second part being the highest and best bidder for the same, the receipt of which said sum is hereby acknowledged and was then and there in hand paid to the said party of the first part:

Sale under decree.

NOW THEREFORE this Indenture further,

WITNESSETH, that the said Andrew W. Brazee, Master in Chancery as aforesaid, and party of the first part to these presents in order to carry into effect the said sale so made as aforesaid in pursuance of the order and decree of said Court and in consideration of the premises and of the said sum of one hundred and forty-nine thousand one hundred and twenty-five dollars (\$149,125.00), paid before the execution hereof by the said party of the second part to these presents to the said Andrew W. Brazee, Master in Chancery, as aforesaid, the receipt whereof he doth hereby acknowledge:

Granting clause.

Consideration.

Hath granted, bargained and sold, aliened, released, conveyed and confirmed, and by these presents doth grant, bargain and sell, alien, release, convey and confirm unto the said party of the second part, and to its successors and

Deed under foregoing
decree of railroad
and property of
D. C. R. R. Co. to
D. & S. F. Ry. Co.

Description of railroad
and property
conveyed.

assigns forever, all the franchise and property conveyed by the said mortgage or Deed of Trust of January First, 1882, to the said The Farmers' Loan and Trust Company, Trustee, by the Denver Circle Railroad Company described as follows, that is to say: All the right, title and interest which The Denver Circle Railroad Company had on the date of the execution of the said mortgage or Trust Deed, to wit: On the First day of January, 1882, or thereafter at any time acquired, in and to all and singular the railroad or railroads of the said The Denver Circle Railroad Company, in and from the City of Denver, County of Arapahoe, in the State of Colorado and in around and from said City of Denver, and in said State of Colorado, and also all other railroads, belonging to or thereafter constructed or acquired by the said The Denver Circle Railroad Company, together with all the lands, tracts, lines, rails, bridges, ways, buildings, piers, wharves, structures, erections, fences, walls, fixtures, franchises, privileges, and rights of the said The Denver Circle Railroad Company, and also all locomotives, engines, tenders, cars, carriages, tools, machinery, manufactured or unmanufactured materials, coal, wood and supplies of every kind belonging or appertaining to the said The Denver Circle Railroad Company; Also all the tolls, issues and profits arising out of the said property, and all the right to receive and recover the same; also all the estate, right, title and interest of The Denver Circle Railroad Company in and to any and all real estate belonging to the said Company; also all leasehold lands with the buildings thereon erected, and all real estate, right, title and interest of the said The Denver Circle Railroad Company in any other corporation, it being intended hereby to convey to the said party of the second part under and by virtue of the aforesaid description, all and any right, title and interest of the said The Denver Circle Railroad Company in and to the premises above mentioned and described, whether as Lessee or as holder of the stock or bonds of any other corporation, association or organization or however such interest of The Denver Circle Railroad Company may be regarded in law

or in equity as subsisting or inherent in the aforesaid premises or any part thereof, it having been the true intent and meaning of said mortgage or Trust Deed as adjudicated by said decree that the said The Denver Circle Railroad Company did thereby convey to the said Trust Company,—and it being the true intent and meaning of these presents that there is hereby conveyed to the said party of the second part, all and all manner of franchises of every kind and description however derived and wherever situate, all and all manner of real estate and interest therein wherever such real estate may be situate, and all and all manner of personal property of whatever nature and description the same may be, at the date of said mortgage or Trust Deed, to wit, on the First day of January, 1882, owned or possessed by the said The Denver Circle Railroad Company or which were at any time thereafter during the continuance of said trust acquired; and also all choses in action of every kind and description, including Bills Receivable, book accounts, traffic balances, all books of record and accounts of every kind and description, all papers, maps, inventories and documents in anywise referring or relating to the property or to the franchises by the said mortgage or Trust Deed and hereby conveyed, also all the franchises and property and all personal rights or interests in any franchise or property of every kind or description real, personal, or mixed and wherever the same may be situate or existing at the said date of the said mortgage or Trust Deed or thereafter acquired by or for the said The Denver Circle Railroad Company, together with all and singular the rights, members, privileges, hereditaments and appurtenances to the same belonging, or in anywise appertaining.

Deed under foregoing
decree of railroad
and property of
D. C. R.R. Co. to
D. & S. F. Ry. Co.

TO HAVE AND TO HOLD all and singular the said premises, property, rights, franchises and things above mentioned, and described and hereby granted and conveyed, or intended so to be, with the appurtenances, unto the said party of the second part its successors and assigns, to the only proper use, benefit and behoof of the said party of the second part, its successors and assigns forever.

Habendum clause.

Deed of railroad
and property of
D. C. R. R. Co. to
D. & S. F. Ry. Co.

IN WITNESS WHEREOF the said Andrew W. Brazee,
Master in Chancery as aforesaid, hath hereunto set his
hand and seal the day and year first above written.

ANDREW W. BRAZEE,
*Master in Chancery of the U. S. Circuit Court,
for the District of Colorado.*

Acknowledgment.

UNITED STATES OF AMERICA, }
DISTRICT OF COLORADO, } ss.

I, William A. Willard, Clerk of the District Court of
the United States for the District of Colorado, do hereby
certify that Andrew W. Brazee, Master in Chancery for the
United States Circuit Court in and for said District, per-
sonally known to me to be the identical person whose
name is subscribed to the annexed and foregoing deed
appeared before me this day in person and acknowledged
that he signed, sealed and delivered the same as his free,
voluntary and official act for the uses and purposes therein
set forth.

Given under my hand and official seal this seventh day
of June A.D. 1887.

WILLIAM A. WILLARD,
Clerk.

By F. W. TUPPER,
Deputy Clerk.

[SEAL]

Certificate of recording
of foregoing deed.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

I hereby certify that this instrument was filed for record
in my office at 11 o'clock A.M. June 9, 1887, and is duly
recorded in book 317 page 488.

CHAS. H. SCOTT,
Recorder.

By WM. R. PRINN,
Dp.

CONFIRMATION OF SALE

BY

ANDREW W. BRAZEE, MASTER IN CHANCERY,

TO

THE DENVER AND SANTA FE RAILWAY
COMPANY

AND OF FOREGOING DEED.

THE FARMERS LOAN AND TRUST COMPANY,	} No. 137.
<i>Complainant,</i>	
<i>vs.</i>	} In Equity.
THE DENVER CIRCLE RAILROAD COMPANY,	
<i>Defendant.</i>	

This cause coming on to be heard upon the report of Andrew W. Brazee Esquire, Master in Chancery, whereby it appears that pursuant to the decree of foreclosure herein the said Master, after due advertisement, did on the first day of June, A.D. 1887, sell the mortgaged property to the Denver and Santa Fe Railway Company for the sum of One hundred and forty-nine thousand one hundred and twenty-five (149,125) dollars.

Recital as to sale to
D. & S. F. Ry. Co.

It is ordered on motion of Chas. E. Gast Esq., Solicitor for Complainant, that the acts and doings of the said Master in Chancery in the premises be, and the same are hereby approved, and the sale and conveyance of the mortgaged property to the Denver and Santa Fe Railway Company confirmed.

Order confirming sale
and conveyance.

It is further ordered that the report of C. L. McIntosh, Receiver herein, showing his receipts and disbursements as Receiver from November 11, 1885, to August 31, 1887, be and the same is hereby approved, and the said Receiver is ordered and directed to deliver possession of the mortgaged property to the Denver and Santa Fe Railway Com-

Further order as to
receipts and
disbursements of
Receiver.

Receiver ordered to
deliver possession of
mortgaged property
to D. & S. F. Ry. Co.

Confirmation of
foregoing deed by
Circuit Court of U.S.

pany, and that thereafter he stand acquitted and discharged from his said Receivership.

And thereafter comes the said The Denver and Santa Fe Railway Company, and deposits with the Clerk of this Court, for cancellation, two certain certificates of the Receiver, one for the principal sum of Five thousand dollars, with interest from December 1, 1885, and one for the principal sum of seven thousand dollars, and interest from May 20, 1886.

Order as to liabilities
of Receiver.

And it is ordered that the said Company, as purchaser of the said property, take the same charged with the payment of the other liabilities of said Receiver, as stated in his account.

Order as to disposition
of bonds and cash
received in payment.

It is further ordered that the said Master in Chancery withdraw from the First National Bank of Denver the Mortgaged Bonds by him received in payment of the bid of the Denver and Santa Fe Railway Company at the foreclosure sale, and having in a suitable manner stamped the same as paid, deposit the same with the Clerk of this Court. And that he also withdraw from said First National Bank of Denver, the balance of the cash payment received by him at the foreclosure sale, and after satisfying all unpaid costs herein, pay the remainder to the complainant Company, or its Solicitors, as compensation to the said Complainant as trustee and for the services of its Solicitors and counsel in the premises.

Certif. of Clerk of
Circuit Court of U.S.

I, Robert Bailey, Clerk of the Circuit Court of the United States for the District of Colorado, do hereby certify that the above and foregoing is a full, true, and correct copy of the order of confirmation, entered Sept. 10, 1887, in the case of The Farmers Loan and Trust Company vs. The Denver Circle Railroad Company, as shown by the records of said Court.

Order of confirmation
entered Sept. 10, 1887.

Witness my hand and the seal of said Court, at Pueblo in said District, this 3rd day of August, A.D. 1892.

ROBERT BAILEY,
Clerk.

SEAL OF
U.S. CIR. CT.

By MARK L. BLUNT,
Deputy Clerk.

EXTINCTION OF JUDGMENT LIEN
 UPON THE FRANCHISE AND PROPERTY OF
THE DENVER CIRCLE RAILROAD COMPANY
 AND ACQUISITION THEREOF BY
THE DENVER AND SANTA FE RAILWAY
COMPANY.

SHERIFF'S DEED
 OF SAID PROPERTY TO
P. JEWELL AND SONS.

KNOW ALL MEN BY THESE PRESENTS: That Whereas The Saint Louis Bolt & Iron Company did at the May term 1885 of the Superior Court within and for the City of Denver in the County of Arapahoe and State of Colorado recover a Judgment against The Denver Circle Railroad Company for the sum of \$325.46 damages and costs of suit upon which judgment and execution was issued dated 24 July 1885, directed to George H. Graham Sheriff as aforesaid-levied upon lands and property hereinafter described, and the same was struck off and sold to R. D. Thompson of Denver, Colorado, he being the highest and best bidder therefor and the time and place of sale thereof having been duly advertised according to law, and the said R. D. Thompson having duly assigned his Certificate of Purchase to Pliny Jewell, Lyman B. Jewell and Charles A. Jewell, co-partners as P. Jewell & Sons of Hartford in the State of Connecticut,

Recital as to sale on execution and assignment by purchaser.

NOW THEREFORE: Know all by this Deed that I, Frederick Cramer, the successor of the said George H. Graham and now the duly elected, qualified and acting Sheriff of the said County of Arapahoe, have granted bar-

Sheriff's deed.

Sheriff's deed to
P. Jewell & Sons.

gained and sold and do hereby convey to the said P. Jewell & Sons their and each of their heirs and assigns the following described tract or tracts of land and property situate in the County of Arapahoe and State of Colorado that is to say:

Property sold and
conveyed.

All the right, title and interest which the above named The Denver Circle Railroad Company has in and to all and singular the Railroad and Railroads of the said Denver Circle Railroad Company in and from the City of Denver, County and State aforesaid and in and around said City of Denver in said State of Colorado.

And also other Railroads belonging to the said Denver Circle Railroad Company together with all the lands tracks lines rails, bridges ways buildings piers wharves structures erections fences, walls fixtures franchises privileges and rights of the said The Denver Circle Railroad Company, And also all Locomotives engines tenders, cars and carriages of every kind belonging or appertaining to the said Railroad of the said Company.

Also all the right title and interest of the said Denver Circle Railroad Company in and to any and to all real estate belonging to the said Company and all Leasehold lands with the buildings thereon erected in said Arapahoe County State of Colorado.

Habendum clause.

TO HAVE AND TO HOLD the said described premises with all appurtenances thereunto belonging to the said P. Jewell & Sons, their and each of their heirs and assigns forever.

Oct. 18, 1886.

WITNESS my hand and seal this eighteenth day of October 1886.

FREDERICK CRAMER, [SCROLL SEAL]
Sheriff Arapahoe Co. Co.

Acknowledgment.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

I C. A. Goodyear a Notary Public within and for the County and State aforesaid do hereby certify that before me this day came personally Frederick Cramer who is to me known to be the same person described herein and who

executed the within and foregoing Sheriff's Deed and who is also to me known to be the successor of George H. Graham and the duly elected qualified and acting Sheriff of Arapahoe County Colorado and acknowledged that he signed sealed and delivered the within instrument in writing as his free act and deed as such Sheriff for the uses and purposes therein set forth.

Sheriff's deed to
P. Jewell & Sons.

WITNESS my hand and Notarial seal this 18th day of October 1886.

C. A. GOODYEAR,

[NOTARIAL SEAL]

Notary Public.

STATE OF COLORADO, {
ARAPAHOE COUNTY, { ss.

Certificate of recording
of foregoing deed.

I, Jos. J. Smith, County Clerk and Recorder in and for said County State aforesaid hereby certify the above and foregoing is a full and correct copy from the Record in this office of Sheriff's Deed Recorded at 10 o'clock A.M. December 20th 1886 as same appears in Book 274 Page 246.

WITNESS my hand and official seal this 18th day of December 1889.

JOS. H. SMITH,

Clerk and Recorder.

By WM. R. PRINN,

[SEAL]

Dp.

DEED

OF

P. JEWELL AND SONS.

TO

CHARLES E. GAST, TRUSTEE.

Jan. 18, 1887.

THIS INDENTURE, Made the Eighteenth (18) day of January in the year of our Lord, one thousand eight hundred and eighty seven (A.D. 1887) Between Pliny Jewell, Lyman B. Jewell and Charles A Jewell, co-partners as P. Jewell & Sons, of Hartford in the State of Connecticut, parties of the first part and Charles E. Gast Trustee of Pueblo, Colorado of the second part,

WITNESSETH, that the said parties of the first part, for and in consideration of the sum of Five (5) Dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have Remised, Released and Quitclaimed, and by these presents do Remise, Release and Quitclaim unto the said party of the second part, and to his heirs and assigns forever, the following described premises, to wit:

All the right, title and interest which the said parties of the first part acquired in and to the property therein described by virtue of a certain Deed from Frederick Cramer, Sheriff of Arapahoe County, to the first parties herein, dated 18th October 1886 and recorded December 20th 1886 in the Recorder's office of Arapahoe County in the State of Colorado in book 274 at page 246. And no other.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or

in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the parties of the said first part, of, in or to the above described premises, and every part and parcel thereof with the appurtenances.

Deed of
P. Jewell & Sons to
Charles E. Gast,
Trustee.

TO HAVE AND TO HOLD all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

IN TESTIMONY WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

PLINY JEWELL. [SEAL]

LYMAN B. JEWELL. [SEAL]

CHAS. A. JEWELL. [SEAL]

Signed and Delivered in presence of

E. HENRY HYAR, JR.

CHARLES E. NEWTON.

STATE OF CONNECTICUT, }
COUNTY OF HARTFORD, } ss.

Acknowledgment.

On this Twenty fifth day of January in the year one thousand eight hundred and eighty seven before me, the subscriber, Charles E. Newton, a Notary Public within and for the County and State aforesaid, appeared Pliny Jewell Lyman B. Jewell and Charles A. Jewell, who are to me personally known to be the same persons described in, and who executed the within instrument, and acknowledged that they executed the same for the uses and purposes therein set forth; and the said ———

WITNESS, my hand and Notarial seal, this twenty fifth day of January A.D. 1887.

[SEAL]

CHARLES E. NEWTON,

Notary Public.

Deed of
P. Jewell & Sons to
Charles E. Gast,
Trustee.

STATE OF CONNECTICUT,
HARTFORD COUNTY,
SUPERIOR COURT,
CLERK'S OFFICE, } ss.

Certificate of Clerk of
Court as to authority
of Notary and validity
of acknowledgment.

I, Francis Chambers Clerk of the County of Hartford,
and of the Superior Court within and for said County,
which is a Court of Record, and keeper of the Seal thereof,
hereby certify that Charles E. Newton, Esquire, whose
name is subscribed to the certificate or proof or acknowl-
edgment of the annexed instrument, was at the time of
taking such proof or acknowledgment a Notary Public
within and for said County, duly commissioned and sworn,
with authority by the laws of this State to administer oaths
and take the acknowledgment of deeds and other instru-
ments; that I am acquainted with his handwriting and
verily believe that the signature to the said certificate or
proof of acknowledgment is genuine, and that said instru-
ment is executed and acknowledged according to the Laws
of the State of Connecticut.

IN TESTIMONY WHEREOF, I have hereunto set my hand
and the Seal of said Superior Court, at Hartford, in said
County and State, on this 25th day of January A.D. 1887.

FRANCIS CHAMBERS,
Clerk, as aforesaid.

Certificate of recording
of foregoing deed.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

I hereby certify that this instrument was filed for Record
in my office at 11 o'clock A.M. June 9, 1887 and is duly
recorded in book 317 page 481.

CHAS. H. SCOTT,
Recorder.

By WM. R. PRINN,
Dp.

DEED

OF

CHARLES E. GAST, TRUSTEE

TO

**THE DENVER AND SANTA FE RAILWAY
COMPANY.**

KNOW ALL MEN BY THESE PRESENTS, That I, Charles E. Gast, Trustee, of the County of Pueblo and State of Colorado for and in consideration of the sum of One hundred Dollars, to me in hand paid by The Denver and Santa Fe Railway Company, a corporation organized and existing under the laws of the State of Colorado the receipt whereof is hereby acknowledged, have remised, released and Quit-Claimed, and by these presents do remise, release and Quit-Claim unto the said The Denver and Santa Fe Railway Company and to its successors and assigns forever, all the following described premises situated in the County of Arapahoe and State of Colorado, to wit: All the right, title and interest which said party of the first part has in and to the property, rights and franchises of The Denver Circle Railroad Company by virtue of a certain deed from Frederick Cramer, Sheriff of Arapahoe County to Pliny Jewell, Lyman B. Jewell and Charles A. Jewell dated the 18th day of October 1886 and recorded the 20th day of December 1886 in the Recorder's office of Arapahoe County in the State of Colorado, in Book 274 at page 246, and by virtue of a certain deed from the said Pliny Jewell, Lyman B. Jewell and Charles A. Jewell to the party of the first part, dated the 18th day of January 1887 and of record in the office of the County Clerk and Recorder of Arapahoe County aforesaid, conveying the property aforesaid.

Quit claim deed by
Charles E. Gast,
Trustee, of all
property and rights
conveyed to him
by deed of
P. Jewell & Sons.

Deed of
Charles E. Gast,
Trustee, to
D. & S. F. Ry. Co.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and all the estate, right, title, interest, claim, or demand whatsoever, by me the said Charles E. Gast, Trustee either in law or equity, of, in and to the above bargained premises.

TO HAVE AND TO HOLD the same to the said The Denver and Santa Fe Railway Company and to its successors and assigns forever.

June 3, 1887.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this third day of June A.D. Eighteen Hundred and Eighty seven.

CHAS. E. GAST, [SEAL]
Trustee.

Acknowledgment.

STATE OF COLORADO, }
COUNTY OF PUEBLO, } ss.

I, Allen J. Beaumont, a Notary Public in and for the said County, in the State aforesaid, do hereby certify that Charles E. Gast Trustee who is personally known to be the same person who executed the within deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 3d day of June A.D. 1887.

[SEAL] ALLEN J. BEAUMONT,
Notary Public.

Certificate of recording
of foregoing deed.

STATE OF COLORADO, }
ARAPAHOE COUNTY } ss.

I hereby certify that this Deed was filed for record at 11 o'clock A.M. June 9, 1887, in my office, and duly recorded in book 317 on page 482.

CHAS. H. SCOTT,
Recorder.

By WM. R. PRINN,
Dep.

27th

Created

18th

18th

18th

18th

18th

18th

Act of Inc.
D. C. R. E. Co.

purpose of becoming a body corporate and politic, under and by virtue of the laws of the State of Colorado, and in accordance with the laws of said State, we do hereby make execute and acknowledge in twelve original certificates in writing, of our intention to become a body corporate, under and by virtue of said laws.

Corporate name.

FIRST. The corporate name and style of this company shall be "The Denver Circle Real Estate Company."

Objects and powers of
Corporation.

SECOND. The objects for which this Company is formed are, to become a body corporate and politic; to buy, sell, or exchange property, both real or personal, to farm, improve irrigate, lease or bond land in the State of Colorado, or in any other State the Company may elect; to buy or build houses, mills, factories, stores, hotels or dwellings, or to sell or lease the same; to construct canals, ditches lakes reservoirs and use the same; to establish and operate stage, omnibus and chariot lines necessary to the promotion of sales increasing of values, adding to facilities, development of property purchase, owned and sold by said company; to lay water pipes and to carry water and to exercise all the rights of land owners; to supply and sell water for the purpose of irrigating or for domestic or other uses; to carry on the business of milling, manufacturing, store and hotel keeping in buildings owned by the Company; to borrow and lend money, to take mortgages trust deeds or other securities and to pledge the property and franchises of the company both real and personal; to acquire by purchase, lease, discovery, location, entry, grant, devise, gift or otherwise real estate, mill sites or other property, to erect buildings, mills, furnaces or other reduction works in the State of Colorado; to hold work and develop the same for the benefit of the company and to dispose of said property at pleasure which may in any way contribute to the interest of the company, or building up the industries of Colorado; to unite or co-operate with any other company, corporation firm or individual in any works or business of a similar nature to the objects of this company and to hold stock or shares in other companies with similar objects; to plat or subdivide pieces, tracts or par

cels of land owned acquired or claimed by the company into town sites or to plat or lay out any land of the company into subdivisions or additions to towns or cities and to sell the same as aforesaid; to sell to any other company corporation or individual, stock, shares or interest, in any business work or undertaking or property of the company or to perform any and all lawful acts which the directors or stockholders may deem necessary for the successful prosecution of the business of the company.

Act of Inc.
D. C. R. E. Co.

THIRD. The principal office of the company shall be in Denver Arapahoe County Colorado where the principal business of the Company shall be conducted, but the directors of the company may establish offices in such places as they may deem prudent and discontinue the same at pleasure.

Officers of company.

FOURTH. The capital stock of the company is One million dollars, divided into one hundred thousand shares of ten dollars each, which said shares shall be non-assessable.

Capital stock.

FIFTH. The company shall exist for the full term of twenty years.

Term of corporate
existence.

SIXTH. The affairs and management of said company shall be under the control of five directors, and William A. H. Loveland John W. Knox, Henry D. Perky Archie C. Fiske Jmas. Moulton who are to become stockholders in said company shall be directors for the first year and shall remain such until their successors are elected and enter upon the duties of their said offices.

Directors.

SEVENTH. The Directors hereinbefore mentioned and their successors in office, shall have power from time to time to make, alter and amend such by-laws as they may deem proper for the management and disposition of stock and the business affairs of said company, not inconsistent with the laws of the State of Colorado, or the United States and prescribing the number and duties of officers and servants; for the appointment and removal of officers and for the carrying on of all kinds of business within the purposes and objects of said company.

Directors to have
power to make, alter,
and amend by-laws.

EIGHTH. The company shall have a seal. The impress of which shall be as follows "The Denver Circle Real Estate Company incorporated January A.D. 1882."

Corporate seal.

Act of Inc.
D. C. R. E. Co.
Execution of
contracts and deeds.

NINTH. All contracts and deeds of conveyance by the the company are to be in the company's name and signed by president and countersigned by the Secretary of the Company with the impress of the seal of the company thereon.

Meetings.

TENTH. There may be one regular meeting at the Denver office, on the first Monday of each month and at such other times as the business of the company may require notice being given of the same at any regular meeting or by the president or secretary.

Officers.

ELEVENTH. The officers of the company shall consist of a president, vice president treasurer and secretary whose duties shall be fixed by the board of directors. After the first year the officers of the company shall be elected as provided by the by-laws of the company.

Authorisation of
contracts and deeds.

TWELFTH. The Board of directors or a quorum thereof at any regular or called meeting of the same, shall authorize and order the signing execution and delivery of all contracts and deeds of conveyance on the part of the company; and all deeds of conveyance from the company shall state at what meeting the same was ordered to be made.

IN WITNESS WHEREOF the undersigned have hereunto set their hands and seals this 17th day of January A.D. 1882.

WILLIAM A. H. LOVELAND. [SEAL]
JOHN W. KNOX. [SEAL]
HENRY D. PERKY. [SEAL]
ARCHIE C. FISK. [SEAL]

Acknowledgment.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

I W. A. Harris Jr. a Notary Public in and for said County in the State aforesaid do hereby certify that, William A. H. Loveland, John W. Knox, Henry D. Perky Archie C. Fisk personally known to me to be the persons whose names are subscribed to the above foregoing certificate of incorporation appeared before me this day in person and acknowledged they signed, sealed and delivered the said instrument of writing as their free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial seal this seventeenth day of January A.D. 1882. Act of Inc.
D. C. R. E. Co.

W. A. HARRIS, JR.,
Notary Public.

[SEAL] [COMPANY'S SEAL]

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Certificate of
President and
Secretary as to
corporate seal.

This is to certify that the above impressed seal bearing the corporate name of this company is the seal adopted by The Denver Circle Real Estate Company.

W. A. H. LOVELAND,
President.
H. D. PERKY,
Secretary.

[ENDORSED]

Indorsement of
Secretary of State.

ARTICLES OF INCORPORATION OF THE DENVER CIRCLE
REAL ESTATE COMPANY.

RECORDED IN BOOK 9 PAGE 413.

STATE OF COLORADO, }
SECRETARY'S OFFICE, } ss.

Filed Jan. 27, 1882 2 o'clock Min. P.M.

Articles filed
Jan. 27, 1882.

N. H. MELDRUM,
Secretary of State.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Certificate of County
Clerk and Recorder as
to filing and recording
of foregoing Articles.

I, A. B. McGaffey, County Clerk and Recorder of Arapahoe County, Colorado, do hereby certify that the Articles of Incorporation of the Denver Circle Real Estate company were filed in my office on the 27th day of January, A.D. 1882, and were duly recorded in my office in Book No. 1 of Incorp. at Page No. 464 of the records of my office.

WITNESS my hand and Official Seal this 16th day of September, A.D. 1892.

[SEAL] A. B. MCGAFFEY,
County Clerk and Recorder.
W. R. PRINN,
Dep.

MORTGAGE

OF

THE DENVER CIRCLE REAL ESTATE CO.

TO

H. J. ALDRICH, TRUSTEE FOR TRAVELERS
INSURANCE COMPANY.

TRUST DEED.

THE DENVER CIRCLE REAL ESTATE COMPANY
TO
H. J. ALDRICH FOR USE OF
THE TRAVELERS INSURANCE COMPANY

Filed for Record at 11 o'clock A.M. June 3d 1884,
CHAS. H. SCOTT, Recorder.

March 1, 1884.

THIS INDENTURE made this first day of March A.D. 1884 between the Denver Circle Real Estate Company a corporation existing under the laws of the State of Colorado party of the first part and H. J. Aldrich of the County of Arapahoe and State of Colorado party of the second part:

WITNESSETH: *That whereas* the said party of the first part is indebted to The Travelers Insurance Company in the sum of Seventy Five Thousand Dollars (\$75,000) or so much money lent to it by the said Travelers Insurance Company and is obligated to pay the same in manner and form as is stipulated in and by fifteen (15) first mortgage real estate notes so called, dated the first day of March A.D. 1884 for the principal sum of five thousand dollars (\$5,000) each payable to the order of the said The Travelers Insurance Company in five (5) years from the date thereof with interest thereon at the rate of nine (9) per cent. per annum payable annually as evidenced by five (5) coupons attached to each of said notes and of even date therewith which said notes have been executed by the said

party of the first part and by it delivered to the said The Travelers Insurance Company.

And whereas the said party of the first part is desirous of securing not only the prompt payment of said notes but also of effectually securing and indemnifying the said The Travelers Insurance Company for or on account of any assignment indorsement or guaranty of said notes.

NOW THEREFORE the said party of the first part in consideration of the premises and for the purpose aforesaid and in the further consideration of one dollar to it in hand paid by the said party of the second part, the receipt whereof is hereby confessed hath given, granted, bargained sold and conveyed and hereby doth give, grant, bargain, sell, convey and confirm unto the said party of the second part his assigns or successors in trust forever all the premises situated in the County of Arapahoe and State of Colorado, known and described as follows, to wit:—

The Northwest one quarter of the southwest one quarter and Southwest one quarter of southwest one quarter of section twenty-two (22) and the southeast one quarter of southeast one quarter and the northeast one quarter of southeast one quarter of Section twenty-one (21) all in Township four south of Range Sixty-eight west, excepting right of way for The Denver South Park and Pacific Railway Company and which said above described land is enclosed and is known and designated as "Jewell Park." And also the Northwest one quarter of Southeast one quarter of Section fifteen (15) Township four South of Range sixty-eight west excepting sixty-three one hundredths ($\frac{63}{100}$) of an acre for right of way for the Denver and New Orleans Railroad Company and which said above described land has been laid out and platted into lots and blocks streets and alleys and is known as the First Addition to Lincoln Subdivision. And also all the premises situated in said County of Arapahoe and State of Colorado aforesaid and known and described as follows, to wit:—

Commencing at a point one hundred and sixty-five feet south of the southeast corner of the Northeast quarter Section fifteen (15) Township four south of Range Sixty-eight

Mortgage of
D. C. R. E. Co.
discharged
May 11, 1887.
see post, p. 412.

Mortgage of
D. C. R. E. Co.
discharged
May 11, 1887,
see post, p. 412.

west; thence four hundred and ninety-five (495) feet south, thence west thirteen hundred and twenty (1320) feet, thence north four hundred and ninety-five (495) feet, thence east thirteen hundred and twenty (1320) feet, to the place of beginning containing fifteen (15) acres. Also the south half of the Northeast quarter of the Southeast quarter and the North half of the Southeast of the Southeast quarter, and the north half of the Southwest quarter of the Southeast quarter of the Southeast quarter Section fifteen (15) Township four South of Range Sixty-eight west, containing forty-five (45) acres more or less and which said above described land is known as a part of Lincoln Subdivision and

Also the North one-half of Northeast one quarter of Section twenty-two (22) Township four south of Range Sixty-eight west, excepting four acres for right of way of The Denver and New Orleans Railroad Company and which said above described land is known as a part of Sherman Subdivision.

And also the South half of the North half of Southeast one quarter of Section twenty-two (22) Township four South of Range Sixty-eight west and east half of Northwest one quarter of Northeast one quarter and northeast one quarter of northeast one quarter of Section twenty seven (27) Township four south of Range sixty-eight west and which said above described land is known as a part of Grant Subdivision.

Excepting and reserving from the above forty-one (41) lots in Lincoln Subdivision, eleven (11) lots in First Addition to Lincoln Subdivision, two (2) lots in Grant Subdivision and one hundred and forty-five (145) lots in Sherman Subdivision, all of which said lots have been heretofore sold and conveyed by the said Real Estate Company to various purchasers, together with all buildings situated thereon.

TO HAVE AND TO HOLD the same together with all and singular the tenements, hereditaments privileges and appurtenances thereunto belonging or in anywise appertaining to the said H. J. Aldrich, Trustee and his assigns

successors in trust for the sole and proper use and behoof of the said H. J. Aldrich forever:

In trust nevertheless that in case of default in payment of said notes or any part thereof or interest thereon according to the tenor and effect of said notes and said coupons or in case of failure or neglect to perform the covenants hereinafter contained then it shall and may be lawful for said party of the second part his assigns or successors in trust to sell and dispose of said premises and all the right title benefit and equity of redemption of said party of the first part its successors or assigns therein at public auction at the Fremont Street door of the Court House in said County in the City of Denver in the State of Colorado for the highest and best price the same will bring in cash thirty days public notice having been previously given of the time of such sale by advertisement in one of the newspapers at that time published in said County of Arapahoe and to make, execute and deliver to purchaser or purchasers at such sale good and sufficient deed or deeds of conveyance for the premises sold and out of the proceeds or avails of such sale and the purchase money paid thereon after first paying all costs of advertising and sale, commissions and all other expenses of this trust including all moneys advanced for insurance and taxes or other liens and assessments with the interest thereon to pay the principal and interest due on said notes according to the tenor and effect thereof rendering the overplus (if any) unto the said party of the first part its successors and assigns on reasonable request, and it shall not be obligatory upon the purchaser or purchasers at any such sale to see to the application of the purchase money, which sale or sales so made shall be a perpetual bar both in law and in equity against the said party of the first part its successors and assigns and all other persons claiming the premises aforesaid or any part thereof by, from or through or under said party of the first part or any of them; the holder or holders of said note or notes may become the purchaser of said property or any part thereof, said party of the first part to pay all costs of this trust including all moneys advanced for insurance and

Mortgage of
D. C. R. E. Co.
discharged
May 11, 1887,
see *post*, p. 412.

Mortgage of
D. C. R. E. Co.
discharged
May 11, 1887,
see *post*, p. 412.

taxes or other liens or assessments with interest thereon at the rate of nine (9) per cent. per annum from the time when so advanced which costs, including all moneys so advanced and the interest thereon shall be added to the principal debt and shall be secured thereby in the same manner.

And the said The Denver Circle Real Estate Company party of the first part does hereby covenant and agree to and with said party of the second part his assigns or legal representatives or successors in trust that at the time of the execution, ensembling and delivery of these presents it is well seized of said premises as a good and indefeasible estate in fee simple and hath good right full power and lawful authority to grant bargain and sell the same in manner and form as aforesaid and that the same are free and clear of all liens and incumbrances whatever.

And furthermore the said party of the first part doth by these presents bind itself and its successors and assigns forever to warrant and defend the above granted and bargained premises to the said party of the second part and his assigns and successors in trust against all claims and demands whatsoever.

And the said party of the first part doth further covenant with the said party of the second part and his assigns and successors in trust that if the said party of the first part will well and truly pay all taxes and assessments that have been or shall hereafter be imposed or levied upon the said premises when and as the same are or shall become due and payable and save the said H. J. Aldrich his heirs and assigns harmless therefrom, and further that if the said party of the first part will keep all the buildings fences and other improvements upon said premises in as good repair and condition as the same are at the date hereof and further that it will commit no waste and suffer none to be committed on the same until the said notes interest and debt shall be fully paid.

And the said party of the first part further covenant with the said party of the second part his successors in trust and assigns that from the date hereof until the fu

payment of the said notes interest and debt it will as a further security for the money lent to them as aforesaid keep the buildings on said premises insured against loss or damage by fire in a sum not less than Twenty Thousand dollars in some good and responsible Company or Companies approved by the said Travelers Insurance Company or its assigns, and by policy or policies payable in case of loss to them the said Travelers Insurance Company or its successors or assigns.

Mortgage of
D. C. R. E. Co.
discharged
May 11, 1887,
see *post*, p. 412.

It is agreed that the said Travelers Insurance Company or its successors or assigns may at any time demand repayment of any moneys so advanced and paid by it for taxes assessments or insurance together with the said interest thereon and that if such moneys and interest shall not be paid when so demanded the said Travelers Insurance Company or its assigns may at its option declare the whole amount secured by these presents including principal and interest to be due.

And it is stipulated and agreed that in case of default in any of said payments of principal or interest as aforesaid or of a breach of any of the covenants or agreements herein then and in that case the whole of said principal sum hereby secured and the interest to the time of sale according to the tenor and effect of said indebtedness shall and may at once become due and payable anything in the said notes to the contrary notwithstanding and the said premises to be sold in like manner and with the same effect as if the said indebtedness had matured, and the said party of the second part his assigns or successors in trust shall thereupon be entitled to the immediate possession of the premises of and to the rents, profits and emblements thereof.

And it is hereby understood and agreed that from time to time as sales are made of said real estate covered by this deed of trust that the said H. J. Aldrich Trustee as aforesaid may release such parts or portions of said real estate as may be sold upon being paid one half of the purchase price thereof, provided however that no such parts or portions of said real estate shall be sold for a less price than

Mortgage of
D. C. R. E. Co.
discharged
May 11, 1887,
see *post*, p. 412.

at the rate of Five hundred dollars (\$500) per acre, and which said one half of the purchase price of said real estate herein provided for shall be for the benefit of the said Travelers Insurance Company to be by said Trustee applied in payment of said notes and indebtedness and it shall not be necessary for any purchaser of any part of said lands to see to the application of the purchase money, but the money shall be paid to the said trustee or to his successor in trust and his receipt therefor shall be sufficient evidence that the money has been properly applied.

And it is further agreed that in case of the absence, failure to act or other inability to act of the said H. J. Aldrich then John P. Brockway shall be his successor in trust hereby created.

And it is further agreed and especially understood that in case of death resignation or removal from the State of Colorado or failure to act or other inability of said party of the second part or his successor in trust, then the acting Sheriff of said Arapahoe County, shall be and hereby is appointed and made successor in trust herein with like power and authority as the said party of the second part and the said premises shall become vested in such new trustee accordingly.

IN WITNESS WHEREOF the said The Denver Circle Real Estate Company has caused its corporate seal to be hereunto affixed and these presents to be signed and attested by its President and Secretary and the said H. J. Aldrich Trustee, and the said John P. Brockway successor in trust have hereunto set their respective hands and seals the day and year first above written.

THE DENVER CIRCLE REAL ESTATE COMPANY.

By T. C. HENRY,
[CORPORATE SEAL] *President*

By F. W. LOVELAND,
Secretary.

H. J. ALDRICH, [SCROLL SEAL] *Trustee*

JOHN P. BROCKWAY, [SCROLL SEAL] *Successor in Trust*

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Mortgage of
D. C. R. E. Co.
discharged
May 11, 1887,
see *post*, p. 412.

On this fourth day of March A.D. 1884 before me came "The Denver Circle Real Estate Company" by T. C. Henry its President, who is well known to me to be the President of said Company and the identical person whose name is subscribed to the foregoing deed of trust as such President and he then and there acknowledged the said foregoing deed of trust to be the act and deed of the said "The Denver Circle Real Estate Company" and before me also came H. J. Aldrich Trustee, and John P. Brockway successor in trust who are well known to me to be the identical persons whose names are subscribed to the foregoing deed of trust as such Trustee and successor in trust and they then and there acknowledged the said foregoing deed of trust to be their act and deed for the uses and purposes therein set forth.

WITNESS my hand and notarial seal the day and year first above written.

[NOTARIAL SEAL]

FRANK S. REES,
Notary Public,
Arapahoe County, Colorado.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

I, A. B. McGaffey County Clerk and Recorder in and for said County in the State aforesaid do hereby certify that the above and foregoing is a true correct and complete transcript and copy from the records of my office as the same appears in book 217 at page 404.

WITNESS my hand and official seal this 14th day of September A.D. 1892.

[SEAL]

A. B. McGAFFEY,
County Clerk and Recorder.

W. R. PRINN,
Dp.

DISCHARGE OF FOREGOING MORTGAGE

BY

H. J. ALDRICH, TRUSTEE.

RELEASE OF DEED OF TRUST,
H. J. ALDRICH, TRUSTEE
FOR THE USE OF THE TRAVELERS IN. CO.
TO
THE DENVER CIRCLE R. E. CO.
Filed for record at 2 $\frac{3}{4}$ o'clock P.M. May 20, 1887,
CHAS. H. SCOTT, Recorder.

Recital as to making
and recording of
foregoing Mortgage.

KNOW ALL MEN BY THESE PRESENTS, *That*
whereas, The Denver Circle Real Estate Company a corporation organized under the laws of Colorado, of the County of Arapahoe, in the State of Colorado by *his* certain Deed of Trust, dated the first (1) day of March A.D. 1884, and duly recorded in the office of the County Clerk and Recorder of Arapahoe County, in the State of Colorado, on the third (3) day of June A.D. 1884, in book 217 of said Arapahoe County Records, on page 404, conveyed to the undersigned H. J. Aldrich of the County of Arapahoe in the State of Colorado, as Trustee certain real estate in said Deed of Trust described, in Trust to secure to The Travelers Insurance Company in payment of its certain promissory notes with interest and all charges thereon, as in said Deed of Trust mentioned.

Satisfaction of the
notes secured thereby.

And, whereas, the said The Denver Circle Real Estate Company has paid and fully satisfied said notes, together with all interest and charges thereon, according to its tenor:

Discharge.

NOW, THEREFORE, at the request of the said The Travelers Insurance Company, as aforesaid, and in consideration of the premises, and in the further consideration of the sum of one dollar, to me in hand paid by the said *Th* Denver Circle Real Estate Company the receipt whereof *i*

hereby acknowledged, I, H. J. Aldrich, Trustee as aforesaid, do hereby remise, release and forever quit claim unto it the said The Denver Circle Real Estate Company and its successors and assigns forever, all the right, title and interest which I have in and to the said Real Estate, as the Trustee, in said Deed of Trust mentioned, and more particularly described as follows, to wit:

Discharge of
foregoing Mortgage of
D. C. R. E. Co.

The Northwest quarter of the Southwest quarter and the Southwest quarter of the southwest quarter of Section twenty-two (22), the southeast quarter of the southeast quarter and the northeast quarter of the southeast quarter of Section twenty-one (21) except the right of way of the Denver and South Park Railway Company.

The Northwest quarter of the southeast quarter of section fifteen (15) except $\frac{3}{4}$ acres for right of way of the Denver and New Orleans Railroad Company.

Also commencing at a point one hundred and sixty-five (165) feet south of the southeast corner of the northeast quarter of section fifteen (15) thence four hundred and ninety-five (495) feet south, thence west thirteen hundred and twenty (1320) feet, thence north four hundred and ninety-five (495) feet, thence east thirteen hundred and twenty (1320) feet to the beginning.

The south half of the northeast quarter of the southeast quarter; the north half of the southeast quarter of the southeast quarter and the north half of the southwest quarter of the southeast quarter of the southeast quarter of section fifteen (15). The north half of the northeast quarter of section twenty-two (22) except four (4) acres of the right of way of The Denver and New Orleans Railroad Company.

The south half of the north half of the southeast quarter of section twenty-two (22).

The east half of the northwest quarter of the northeast quarter and the northeast quarter of the northeast quarter of section twenty-seven (27) all the above described land being in Township four (4) south of Range sixty-eight (68) west of the sixth (6) principal meridian, excepting from the above forty-one (41) lots in Lincoln Subdivision, Eleven (11) lots in First Addition to Lincoln Subdivision, Two (2) lots in Grant Subdivision and one hun-

Discharge of
foregoing Mortgage
of D. C. R. E. Co.

dred and forty-five (145) lots in Sherman Subdivision situate lying and being in the County of Arapahoe, and State of Colorado.

TO HAVE AND TO HOLD the same, together with all and singular the privileges and appurtenances unto the said The Denver Circle Real Estate Company its successors and assigns forever.

And further, that the said Trust Deed, is by these presents, to be considered as fully and absolutely released, cancelled and forever discharged.

May 11, 1877.

WITNESS my hand and seal, this eleventh (11) day of May A.D. 1887.

H. J. ALDRICH, [PRINTED SEAL]
Trustee.

Signed Sealed and delivered in presence of

Acknowledgment.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

I, Harlan P. Parmelee a Notary Public in and for said County, in the State aforesaid, do hereby certify that H. J. Aldrich who is personally known to me as the person whose name is subscribed to the annexed deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this twentieth (20) day of May A.D. 1887.

HARLAN P. PARMELEE,
[NOTARIAL SEAL] *Notary Public.*

Certificate of
recording of foregoing
discharge.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

I, A. B. McGaffey, County Clerk and Recorder in and for said County in the State aforesaid, do hereby certify that the above and foregoing is a true, correct and complete transcript and copy from the records of my office as the same appears in book 323 at page 241.

WITNESS my hand and official seal this 15th day of September A.D. 1892.

[SEAL]

A. B. MCGAFFEY,
County Clerk and Recorder.
W. R. PRINN, *Dep.*

AUTHORIZATION

BY THE STOCKHOLDERS AND DIRECTORS OF
THE DENVER CIRCLE REAL ESTATE CO.
 OF THE SALE AND CONVEYANCE OF THE LANDS
 OF THAT COMPANY TO
**THE DENVER AND SANTA FE RAILWAY
 COMPANY.**

RECORD OF SPECIAL MEETING OF THE STOCKHOLDERS OF D. C. R. E. Co.
 THE DENVER CIRCLE REAL ESTATE COMPANY, HELD Stockholders' Meeting
 ON MAY 13, 1887. May 13, 1887.

A special meeting of the Stockholders of The Denver Circle Real Estate Company was held at the office of the Company on Friday, the 13th day of May, 1887 at 10 o'clock A.M.

The President, Mr. C. L. McIntosh, occupied the Chair, and Mr. Joseph Johnson acted as Secretary of the meeting.

The Secretary submitted due and proper proof that the meeting had been properly called, according to the by-laws of the Company, by notice to each stockholder of the place, time and objects of the meeting. Proof of call and notice of meeting.

Upon call of the Stockholders present, in person or by proxy, it was found that 2999 shares were represented at the meeting, the same being the entire capital stock with the exception of one share. Stock represented.

The following preamble and resolution was offered by Mr. Brown. Preamble and resolution.

Whereas The Denver & Santa Fe Railway Company, by Charles E. Gast, its Trustee, has acquired the ownership of the entire capital stock of this Company, except such stock as is held by the directors each director holding one share; and Acquisition of capital stock of Co. by D. & S. F. Ry. Co.

D. C. R. E. Co.
Stockholders'
Meeting.

D. & S. F. Ry. Co.
sole creditor of the
Co.

Proposition of
D. & S. F. Ry. Co. to
buy all the real estate
of the Co. in
Arapahoe County for
\$300,000.

Vote to accept said
proposition and the
President and
Secretary authorized
to execute warranty
deed to the said
Ry. Co.

Stock vote.

Resolution that the
purchase money be
distributed as a
dividend of 100 per
cent. to the
stockholders.

Whereas, further, the said The Denver and Santa Fe Railway Company has purchased and now owns all the indebtedness of this Company of every kind and nature whatsoever, and so constitutes its sole and single creditor; and

Whereas, further, The Denver and Santa Fe Railway Company has made a proposition to buy of this Company all the real estate situate in Arapahoe County, Colorado, which this Company owns or possesses, or has any right, title or interest in, for the sum of Three Hundred thousand Dollars (\$300,000) in cash:—

NOW, THEREFORE, voted that the proposition aforesaid be and the same is hereby accepted, and the President and Secretary of the Company are hereby authorized and directed to execute a proper deed of conveyance, with full covenants of warranty, to the said The Denver and Santa Fe Railway Company of the real estate aforesaid, and each and every part thereof, for the consideration and sum of Three hundred thousand Dollars (\$300,000) cash.

A stock vote was taken upon the adoption of the foregoing preamble and resolution, and upon the same being counted it was ascertained that 2999 shares had voted in the affirmative and none in the negative, whereupon the same was declared unanimously adopted.

Mr. Gast offered the following, which was duly seconded, and unanimously adopted:—

Resolved that the purchase money to be received by the Company as a consideration for the conveyances aforesaid be distributed by the executive officers of the Company as a dividend to the extent of one hundred per cent. upon each share of the capital stock.

There being no further business the meeting adjourned.

JOSEPH JOHNSON,
Secretary.

Approved:

C. L. McINTOSH,
President.

RECORD OF MEETING OF THE DIRECTORS OF THE DENVER
CIRCLE REAL ESTATE COMPANY, HELD ON MAY 13,
1887.

D. C. R. E. Co.
Directors' Meeting
May 13, 1887.

A meeting of the Directors of The Denver Circle Real Estate Company was held at the office of the Company on Friday the 13th day of May, 1887 pursuant to due notice.

The President, Mr. C. L. McIntosh, occupied the chair, and Mr. Joseph Johnson acted as Secretary of the meeting.

There were present, Messrs. J. P. Bronk, F. M. Brown, E. O. Wolcott and C. L. McIntosh.

The minutes of the Special Stockholders' Meeting held this day were read, and on motion of Mr. Wolcott it was voted that the action of the Stockholders by their vote of this day, accepting the proposition of The Denver and Santa Fe Railway Company to purchase all the real estate of this Company, situate in Arapahoe County, Colorado, for the sum of Three hundred thousand Dollars (\$300,000) in cash, be and the same is hereby approved, and the executive officers of the Company are hereby authorized and directed to carry out the said vote by making a proper conveyance accordingly.

Action of stockholders
accepting proposition
of D. & S. F. Ry. Co.
approved and
executive officers
authorized to execute
conveyance in
accordance therewith.

There being no further business the meeting adjourned.

JOSEPH JOHNSON,

Secretary.

Approved:

C. L. McINTOSH,

President.

DEED

OF

THE DENVER CIRCLE REAL ESTATE CO.

TO

THE DENVER AND SANTA FE RAILWAY CO.

May 14, 1887.

THIS DEED, made this fourteenth (14) day of May in the year of our Lord one thousand eight hundred and eighty-seven (A.D. 1887) between the Denver Circle Real Estate Company, a corporation organized and existing under and by virtue of the laws of the State of Colorado, by Charles L. McIntosh, its President and Joseph Johnson its Secretary, duly authorized to execute this deed, by resolution adopted at a meeting of its stockholders held May 13, 1887, and readopted and approved at a meeting of its Directors, held on the same day at the office of said Company in the City of Denver, County of Arapahoe and State of Colorado, party of the first part, and The Denver and Santa Fe Railway Company, a corporation organized and existing under and by virtue of the laws of the State of Colorado, party of the second part,

Granting clause.
Consideration.

WITNESSETH, that the said party of the first part, for and in consideration of the sum of Three Hundred Thousand (300,000) Dollars to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, the said party of the first part has granted, bargained, sold and conveyed and by these presents does grant, bargain, sell and convey and confirm unto the said party of the second part its successors and assigns forever all the following described lots pieces and parcels of land situate, lying and being in the County of Arapahoe and State of Colorado to wit:

Description of
property conveyed.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Mortgage of
D. C. R. E. Co.
discharged
May 11, 1887.
see *post*, p. 412.

On this fourth day of March A.D. 1884 before me came "The Denver Circle Real Estate Company" by T. C. Henry its President, who is well known to me to be the President of said Company and the identical person whose name is subscribed to the foregoing deed of trust as such President and he then and there acknowledged the said foregoing deed of trust to be the act and deed of the said "The Denver Circle Real Estate Company" and before me also came H. J. Aldrich Trustee, and John P. Brockway successor in trust who are well known to me to be the identical persons whose names are subscribed to the foregoing deed of trust as such Trustee and successor in trust and they then and there acknowledged the said foregoing deed of trust to be their act and deed for the uses and purposes therein set forth.

WITNESS my hand and notarial seal the day and year first above written.

[NOTARIAL SEAL]

FRANK S. REES,
Notary Public,
Arapahoe County, Colorado.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

I, A. B. McGaffey County Clerk and Recorder in and for said County in the State aforesaid do hereby certify that the above and foregoing is a true correct and complete transcript and copy from the records of my office as the same appears in book 217 at page 404.

WITNESS my hand and official seal this 14th day of September A.D. 1892.

[SEAL]

A. B. McGAFFEY,
County Clerk and Recorder.

W. R. PRINN,
Dp.

Deed of
D. C. R. E. Co. to
D. & S. F. Ry. Co.

twelve (12); Lots three (3) and four (4) in Block thirteen (13) and lots one (1) to seven (7) both inclusive, and twelve (12) to eighteen (18) both inclusive, in Block nineteen (19) in Lake Archer Addition to Denver; Lots twenty-three (23) and twenty-four (24) in Block one (1) in Pierce and Hinman's Addition, Lots nine (9) to eleven (11), both inclusive, and twenty-one (21) to forty (40) both inclusive, in Block one (1) and Lots one (1) to twenty (20) in Block two (2) in Bayaud's Addition; Lots five (5) to eight (8) both inclusive, and ten (10) to forty-one (41) both inclusive in Block forty-one (41); Lots seven (7) to forty (40) in Block forty-two (42); Lots nineteen (19) to thirty-eight (38) both inclusive, in Block forty-three (43); Lots seventeen (17) to twenty-four (24) both inclusive, in Block forty-five (45) all in Byer's Subdivision; Lots eleven (11) to thirty-nine (39) both inclusive, in Block fifty-two (52); Lots five (5) to twenty-one (21) both inclusive, and thirty (30) to forty-eight (48) both inclusive in Block fifty-three (53); Lots one (1) to sixteen (16) both inclusive, and thirty-five (35) to forty-eight (48) both inclusive, in Block fifty-four (54); Lots one (1) to ten (10) both inclusive and forty-one (41) to forty-eight (48) both inclusive in Block fifty-five (55); Lots one (1) to five (5) and forty-six (46) to forty-eight (48) both inclusive, in Block fifty-six (56) and fractional blocks sixty-one (61) and sixty-two (62) All in the First Addition to Byer's Subdivision, Lots six (6) to thirty-eight (38) and forty-three (43) to forty-six (46) in Block one (1); Lots one (1) to forty-six (46) in Block two (2) one (1) to forty-six in Block three (3) and Lots one (1) to forty-six (46) in Block four (4) in First Addition to Lincoln Subdivision; Lots one (1) to thirty-eight (38) in Block one (1) Lots five (5) to thirty-eight (38) in Block two (2). Lots one (1) to thirty-eight (38) in Block three (3) Lots eight (8) thirteen (13) to fifteen (15) and eighteen (18) to thirty-eight (38) in Block four (4). Lots five (5) to forty-four (44) in Block five (5). Lots three (3) to forty-four (44) in Block six (6). Lots one (1) to forty-four (44) in Block seven (7). Lots one (1) to forty-four (44) in Block eight (8).

hereby acknowledged, I, H. J. Aldrich, Trustee as aforesaid, do hereby remise, release and forever quit claim unto it the said The Denver Circle Real Estate Company and its successors and assigns forever, all the right, title and interest which I have in and to the said Real Estate, as the Trustee, in said Deed of Trust mentioned, and more particularly described as follows, to wit:

Discharge of
foregoing Mortgage of
D. C. R. E. Co.

The Northwest quarter of the Southwest quarter and the Southwest quarter of the southwest quarter of Section twenty-two (22), the southeast quarter of the southeast quarter and the northeast quarter of the southeast quarter of Section twenty-one (21) except the right of way of the Denver and South Park Railway Company.

The Northwest quarter of the southeast quarter of section fifteen (15) except $\frac{8\frac{3}{4}}{100}$ acres for right of way of the Denver and New Orleans Railroad Company.

Also commencing at a point one hundred and sixty-five (165) feet south of the southeast corner of the northeast quarter of section fifteen (15) thence four hundred and ninety-five (495) feet south, thence west thirteen hundred and twenty (1320) feet, thence north four hundred and ninety-five (495) feet, thence east thirteen hundred and twenty (1320) feet to the beginning.

The south half of the northeast quarter of the southeast quarter; the north half of the southeast quarter of the southeast quarter and the north half of the southwest quarter of the southeast quarter of the southeast quarter of section fifteen (15). The north half of the northeast quarter of section twenty-two (22) except four (4) acres of the right of way of The Denver and New Orleans Railroad Company.

The south half of the north half of the southeast quarter of section twenty-two (22).

The east half of the northwest quarter of the northeast quarter and the northeast quarter of the northeast quarter of section twenty-seven (27) all the above described land being in Township four (4) south of Range sixty-eight (68) west of the sixth (6) principal meridian, excepting from the above forty-one (41) lots in Lincoln Subdivision, Eleven (11) lots in First Addition to Lincoln Subdivision, Two (2) lots in Grant Subdivision and one hun-

Deed of
D. C. R. E. Co. to
D. & S. F. Ry. Co.

(4) south, of range sixty-eight (68) west of the sixth (6th) Principal Meridian, with the west line of the right of way of The Denver and Rio Grande Railroad Company which point of intersection is forty (40) feet, more or less west of the northeast corner of said quarter (4) section, thence west on said north line seven hundred (700) feet, more or less, to the east line of the right of way of The Denver Texas and Gulf Railroad; thence southeasterly on said last named right of way line, fifty (50) feet more or less, to a point thirty (30) feet due south of the said north line; thence east parallel with and thirty (30) feet distant from said north line six hundred and ninety (690) feet more or less, to said west line of the right of way of The Denver and Rio Grande Railroad, thence northwesterly along said last named right of way line forty (40) feet more or less, to the place of beginning, except the right of way across said tract in accordance with deed from John P. Heister to parties owning land adjoining same on the south.

Also beginning at a point nine hundred and ninety-eight (998) feet west of the southeast corner of the northeast quarter of the southwest quarter of section ten (10) township four (4) south, of range sixty-eight (68) west; thence north three hundred and twenty-eight (328) feet, thence west three hundred and seventeen (317) feet, thence south three hundred and twenty-eight (328) feet, thence east three hundred and seventeen (317) feet to the place of beginning; containing two and one-half ($2\frac{1}{2}$) acres more or less, and being a part of the south half of the northeast quarter of the southwest quarter of section ten (10) township four (4) south, of range sixty-eight (68) west. Also the east half of the northeast quarter of the southwest quarter of the southeast quarter of section ten (10) said township and range, save and except a strip of land twenty (20) feet in width along the south side thereof, set apart for public use. Also a strip one hundred and ten feet and three inches in width off the west side of said tract. Also the east half of the southeast quarter of section twenty-one (21) and the west half of the southwest quarter of section twenty-two (22) in the township and range aforesaid.

the following, viz: Commencing at the northeast corner of the southwest quarter of the southwest quarter of section ten (10) in said township and range, thence west eleven hundred and ninety (1190) feet to the east line of The Denver and Rio Grande Company's right of way; thence southeasterly, along said east line of said right of way, nine hundred and sixty-three and eight-tenths ($963\frac{8}{10}$) feet, thence northeasterly on the line dividing the Bayaud tract from the First Addition to Byer's Subdivision, one hundred and forty (140) feet, to a point, thence north two hundred and thirty-one and seven-tenths ($231\frac{7}{10}$) feet, to a point; thence east one hundred and thirty-two and eight-tenths ($132\frac{8}{10}$) feet, to a point; thence north five hundred (500) feet to a point; thence east five hundred and forty-six and seven-tenths ($546\frac{7}{10}$) feet, to a point on the east line of the said southwest quarter of said southwest quarter; thence north on said east line, one hundred and six and five-tenths ($106\frac{5}{10}$) feet, to the place of beginning. Subject to such public highways alleys and ditch rights as may exist. Also the said first party hereby quit claims to said second party all the interest it may have in and to thirty (30) acres in the southwest quarter of the northwest quarter of section three (3) in said township and range by virtue of a certain tax deed to Archie C. Fisk dated June 24, 1880, and recorded June 28, 1880, and from Fisk by various mesne conveyances to first party herein, all the foregoing being in township four (4) south, of range sixty-eight (68) west.

Deed of
D. C. R. E. Co. to
D. & S. F. Ry. Co.

TO HAVE AND TO HOLD, the premises hereby conveyed together with all the rights, privileges and appurtenances thereto belonging or in any wise appertaining unto the said party of the second part its successors and assigns forever the said party of the first part hereby covenanting to and with the said party of the second part, its successors and assigns to Warrant and forever defend the title to the premises hereby conveyed (except the part in section three (3) aforesaid) against the claim of every person whomsoever.

Habendum clause.

IN WITNESS WHEREOF, the said first party has caused its name to be hereunto subscribed by the hand of

Attesting clause.

The D. & S. F. Ry. Co.

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Deed of D. C. R. E.
Co. to D. & S. F.
Ry. Co.

its President, its corporate seal to be hereunto affixed
and signed by its Secretary the day and year first above
written.

THE DENVER CIRCLE REAL ESTATE COMPANY.

By CHARLES L. MCINTOSH,

[SEAL]

Its President.

Attest:

JOSEPH JOHNSON,

Secretary.

The erasures and interlineations opposite my initials (H. P. P.) were made previous to
execution.

H. P. PARMELEE

Acknowledgment.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

I, Harlan P. Parmelee, a Notary Public within and for
said county, in the State aforesaid, hereby certify that
Charles L. McIntosh, President and Joseph Johnson, Sec-
retary of The Denver Circle Real Estate Company, who
are known to me to be such President and Secretary and
who are personally known to me to be the same persons
who executed the foregoing deed as such President and
Secretary appeared before me this day in person and sever-
ally acknowledged that they executed said deed as their
free and voluntary act as the act and deed of the said The
Denver Circle Real Estate Company for the uses and pur-
poses therein set forth.

Given under my hand and Notarial Seal this twenty-
sixth (26th) day of May A.D. 1887.

HARLAN P. PARMELEE,

[SEAL]

Notary Public.

Certificate of
recording of
foregoing deed.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

I hereby certify that this instrument was filed for record
in my office at 11 o'clock A.M. June 9 1887 and is duly
recorded in book 317 page 483.

CHAS. H. SCOTT,

Recorder

By WM. R. PRINN, *Dep.*

FURTHER DEED

FROM

THE DENVER CIRCLE REAL ESTATE CO.

TO

THE DENVER AND SANTA FE RAILWAY CO.

TO CORRECT AN ERROR IN THE FOREGOING DEED.

THIS DEED, Made this twenty-fourth day of October Oct. 24, 1898.
in the year of our Lord one thousand eight hundred and
eighty-eight between The Denver Circle Real Estate Com- Parties.
pany, a corporation duly organized and existing under and
by virtue of the laws of the State of Colorado, by resolu-
tion of the Board of Directors thereunto duly authorized, of
the first part, and The Denver and Santa Fe Railway Com-
pany, a corporation duly organized and existing under and
by virtue of the laws of the State of Colorado, of the
second part;

WITNESSETH, That the said party of the first part, Granting clause.
for and in consideration of the sum of one dollar to the
said party of the first part in hand paid by the said party of
the second part, the receipt whereof is hereby confessed
and acknowledged, has granted, bargained, sold and con-
veyed, and by these presents does grant, bargain, sell, con-
vey and confirm unto the said party of the second part, its
successors and assigns forever, all the following described Description of
property conveyed.
lot or parcel of land, situate, lying and being in the
County of Arapahoe and State of Colorado, to wit: The
East half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$) of the southwest
quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) of section ten (10),
township four (4) south, of range sixty-eight (68) west.

Save and except a strip of land twenty (20) feet in width
along the south side thereof set apart for public use, also a
strip of land fifteen (15) feet east and west by three hun-

Further deed of
D. C. R. E. Co. to
D. & S. F. Ry. Co.

This deed given to
correct error in
description in
deed of May 14, 1887.

Appurtenances.

Habendum clause.

Covenants of title
against incumbrances
and of warranty.

dred and thirty (330) feet north and south in the northwest corner of said tract.

This Deed is given to correct an error in the description contained in deed dated May 14, 1887, given by first party to second party, and which deed was filed for record June 9, 1887, and recorded in book 317, page 483, of said Arapahoe County Records.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD, the said premises above bargained and described, with the appurtenances unto the said party of the second part, its successors and assigns forever. And the said The Denver Circle Real Estate Company party of the first part, for itself, its successors and assigns, does covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that at the time of the ensealing and delivery of these presents it is lawfully seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power, and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all forms and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever, except any and all taxes, which the party of the second part hereby assumes and agrees to pay and the above bargained premises in quiet and peaceable possession of the said party of the second part, its successors and assigns, against all and every person or persons lawfully claiming or claiming the whole or any part thereof, the said party of the first part shall and will, WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be signed by its President, and its corporate seal to be hereunto affixed, attested by its Secretary, the day and year above written.

THE DENVER CIRCLE REAL ESTATE CO.

CHARLES L. MCINTOSH,

[SEAL]

Its President.

Attest:

JOSEPH JOHNSON,

Secretary.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

Acknowledgment.

I, Henry F. Jolly, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Charles L. McIntosh, President, and Joseph Johnson, Secretary, of The Denver Circle Real Estate Company who are personally known to me to be such officers and the persons whose names are subscribed to the foregoing deed, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act and as the free and voluntary act of said The Denver Circle Real Estate Company, for the uses and purposes therein set forth.

Given under my hand and official seal, this twenty-fourth day of October, A.D. 1888.

HENRY F. JOLLY,

[SEAL]

Notary Public.

My commission expires March 16, 1892.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

Certificate of
recording of
foregoing deed.

I, hereby certify that this instrument was filed for record in my office at 8.50 o'clock A.M. Nov. 2, 1888, and is duly recorded in book 432 page No. 368.

JOSEPH H. SMITH,

Recorder.

By C. C. DAVIDSON, *Dep.*

STATEMENT
 OF THE COST OF THE PROPERTY AND
 FRANCHISES OF THE
DENVER CIRCLE RAILROAD COMPANY
 AND THE
DENVER CIRCLE REAL ESTATE COMPANY
 TO
THE DENVER AND SANTA FE RAILWAY
COMPANY.

Feb. 28, 1887	Cash paid J. E. Conduct as per agree- ment of Feb. 26, 1887,		
Apr. 26, 1887			
May 2, 1887			
May 5, 1887			\$370,000.00
March 5, 1887	\$400,000 Atlantic & Pacific R.R. Co. Bonds delivered to J. E. Conduct as per agreement of Feb. 26, 1887, at 85,		340,000.00
March 3, 1887	Express on above named bonds to Pueblo, Colorado,		437.50
Apr. 5, 1887	C. E. Gast, draft	\$6,415.03	
" " "	" " " "	7,312.09	
" " "	" " " "	11,272.88	
" " "	" " " "	5,000.00	30,000.00
June 7, 1887	A. W. Brazee, Master in Chancery . . .		6,000.00
TOTAL COST OF PROPERTY, . . .			\$746,437.50

IN THE PRELIMINARY CORRESPONDENCE and agreement for the purchase of the franchises and property of The Denver Circle Railroad Company and of The Denver Circle Real Estate Company, printed *ante*, p. 346, the following items occur:

Two items not included in foregoing statement.

"5th. The property of The Golden and South Platte Railway and Telegraph Co., including Depot Block in Golden.

"6th. Four hundred acres Coal & Mineral land contiguous to South Golden."

The property mentioned in both of these items was received, though it is not included in the above statement. What was called the property of the Golden and South Platte Railway and Telegraph Company consisted, besides the depot block in Golden, of the shares of stock of the said Railway and Telegraph Company and certain rails. Both the shares of stock and the rails were subsequently sold, together with the said Depot Block, to the Denver, Apex and Western Railway Company for the sum of \$6,887.50.

Sale of property of G. & S. P. Ry. & Tel. Co. to D. A. & W. Ry. Co.

The four hundred acres of mineral land, mentioned in item 6th above quoted, are still held by The Denver and Santa Fe Railway Company, and contain plastic clay from which the said Railway Company receives a royalty of twenty cents a ton which at present averages about one hundred dollars a month.

Four hundred acres of mineral land.

In the succeeding pages are printed the deeds of the Depot Block at Golden, which was subsequently sold as above stated to the Denver, Apex and Western Railway Company, and also the deeds of the four hundred acres of mineral lands near Golden, and the Report in regard to these last named lands which was made in February 1886 to Col. A. S. Johnson, then Land Commissioner of the Company, by Mr. John E. Frost, then Chief Clerk of that Department and now Col. Johnson's successor as Land Commissioner.

Deeds of above named properties.

DEED

FROM

FRANK S. HOLMES

TO

CHARLES E. GAST, TRUSTEE,

OF PART OF DEPOT BLOCK AT GOLDEN.

March 23, 1887.

Parties.

THIS DEED, Made this Twenty-third day of March in the year of our Lord one thousand eight hundred and eighty-seven between Frank S. Holmes of the County of Arapahoe and State of Colorado, of the first part, and Charles E. Gast, Trustee, of the County of Pueblo and State of Colorado, of the second part:

WITNESSETH: that the said party of the first part, for and in consideration of the sum of Five Thousand Dollars, to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has remised, released, sold, conveyed, and Quit-Claimed, and by these presents does remise, sell, convey and Quit-claim unto the said party of the second part his heirs and assigns forever, all the right, title, interest, claim and demand, which the said party of the first part has in and to the following described Real Estate situate, lying and being in the County of Jefferson and State of Colorado, to wit: All of block Number one (1) on the South side of Clear Creek in the City of Golden in the County of Jefferson and State of Colorado, except a small parcel thereof Twenty (20) feet wide, and Seventy Six (76) feet in length which parcel begins at a point on the east line of Ford Street Twenty five (25) feet Northwesterly from the Southwest corner of lot number Seven (7) in said block, and runs thence northwesterly along the east line of Ford Street Twenty feet thence in a North easterly direction on a line parallel with Second Street Seventy Six (76) feet; thence in a South easterly direction in a line parallel with Ford Street Twenty (20) feet,

and thence on a straight line parallel with Second Street to the place of beginning, the same being that parcel of said block conveyed by one Ensign B. Smith to one Barnord Mallon by a deed of conveyance bearing date of October 17th A.D. 1871 and recorded in book R. page 186 of the records of the Recorder's office of said County of Jefferson to which record reference is hereby made for greater certainty.

Deed of part of
depot block at
Golden to Charles
E. Gast, Trustee.

TO HAVE AND TO HOLD THE SAME, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first above written.

FRANK S. HOLMES. [SEAL]

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

I, James M. Galloway, Notary Public in and for said County, in the State aforesaid, do hereby certify that Frank S. Holmes personally known to me to be the person whose name is subscribed to the annexed Deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial seal, this 23rd day of March A.D. 1887.

JAMES M. GALLOWAY,
Notary Public.

[SEAL]

STATE OF COLORADO, }
JEFFERSON COUNTY, } ss.

I hereby certify that this Deed was filed for record in my office at 10.50 o'clock A.M. April 15th 1887 and is duly recorded in book 36 page No. 158.

AL TOWNSEND.

By GEO. TOWNSEND, *Deputy.*

DEED

FROM

AL TOWNSEND

TO

CHARLES E. GAST, TRUSTEE,

OF PART OF DEPOT BLOCK AT GOLDEN.

April 14, 1887.

Parties.

THIS DEED, Made this fourteenth day of April in the year of our Lord one thousand eight hundred and eighty seven between Al Townsend of the County of Jefferson and State of Colorado, of the first part, and Charles E. Gast, Trustee, of the County of Pueblo, and State of Colorado, of the second part:

WITNESSETH, That the said party of the first part for and in consideration of the sum of Eight Hundred Dollars, to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, hath granted, bargained, sold and conveyed, and by these presents doth grant, bargain, sell, convey and confirm unto the said party of the second part, his heirs and assigns, forever, all the following described lot or parcel of land situate, lying and being in the County of Jefferson and State of Colorado, to wit:

That portion of Lots Seven (7) and Eight (8) in Block One (1) situate on the south side of Clear Creek in the Town of Golden (Now City of Golden) bounded and described as follows: Commencing at a point on the East side of Ford Street forty five (45) feet north of the South East corner of said Lot Seven (7) thence north easterly at right angles to the line of said Ford Street Seventy Six (76) feet; thence southeasterly and parallel to the line of said Ford Street Twenty (20) feet thence Southwesterly at right angles to last course seventy six (76) feet to said line of said street; thence north westerly along the line said street Twenty (20) feet to the place of beginning.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever, of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances,

Deed of remaining
part of depot block
at Golden to
Charles E. Gast,
Trustee.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said party of the second part, his heirs and assigns forever. And the said Al Townsend party of the first part for himself his heirs, executors and administrators, doth covenant, grant, bargain and agree to and with the said party of the second part, his heirs and assigns that at the time of the ensealing and delivery of these presents, he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance in law in fee simple, and hath good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances, of whatever kind of nature soever; and the above bargained premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will Warrant and Forever Defend.

IN WITNESS WHEREOF, The said party of the first part hath hereunto set his hand and seal the day and year first above written.

AL TOWNSEND. [SEAL]

STATE OF COLORADO, }
COUNTY OF JEFFERSON, } ss.

I, George Townsend Deputy County Clerk in and for the said County, in the State aforesaid, do hereby certify that Al Townsend who is personally known to me to be

Deed of remaining
part of depot block
at Golden to
Charles E. Gast,
Trustee.

the person whose name is subscribed to the annexed Deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 14th day of April A.D. 1887.

GEORGE TOWNSEND,
Deputy County Clerk.

STATE OF COLORADO, }
COUNTY OF JEFFERSON, } ss.

This Warranty Deed was filed for Record at 10.05 o'clock A.M., April 15th 1887 and duly recorded in Book 46 Page 232.

AL TOWNSEND,
Recorder.

DEED

FROM

CHARLES E. GAST, TRUSTEE,

TO

THE DENVER AND SANTA FE RAILWAY CO.

May 16, 1887.

Parties.

THIS DEED, Made this Sixteenth day of May in the year of our Lord, One Thousand Eight Hundred and Eighty seven between Charles E. Gast, Trustee, of the County of Pueblo and State of Colorado, of the first part, and The Denver and Santa Fe Railway Company, a corporation organized and existing under and by virtue of the laws of the State of Colorado, of the second part;

Granting clause.

WITNESSETH, That the said party of the first part for and in consideration of the sum of one (1) Dollar to =

the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, its successors and assigns forever, all the following described lot or parcel of land, situate, lying and being in the County of Jefferson and State of Colorado, to wit: All of Block number One (1) on the South side of Clear Creek, in the City of Golden according to the plat thereof.

Deed of depot block
at Golden to
D. & S. F. Ry. Co.

Property conveyed.

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever, of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the said party of the second part, its successors and assigns forever. And the said Charles E. Gast, Trustee, party of the first part, for himself, his heirs, executors and administrators, does covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that at the time of the ensealing and delivery of these presents, he has good right, full power and lawful authority to grant, bargain, sell and convey the same, in manner and form aforesaid, and that the same are free and clear from all former and other liens, taxes, assessments and incumbrances, of whatever kind or nature soever; and the above bargained premises, in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, by, through, or under the said party of the first part, the said party of the first part shall and will warrant and forever defend.

Habendum clause.

Covenants of title
against incumbrances
and of warranty.

Deed of depot block
at Golden to
D. & S. F. Ry. Co.
Attesting clause.

IN WITNESS WHEREOF, The said party of the first part has
hereunto set his hand and seal the day and year above
written.

CHAS. E. GAST, [SEAL]
Trustee.

Acknowledgment.

STATE OF COLORADO, }
PUEBLO COUNTY, } ss.

I, Allen J. Beaumont, a Notary Public in and for said
County in the State aforesaid, do hereby certify that
Charles E. Gast, Trustee, personally known to me to be
the person whose name is subscribed to the annexed Deed,
appeared before me this day in person, and acknowledged
that he signed, sealed and delivered the said instrument of
writing as his free and voluntary act, for the uses and pur-
poses therein set forth.

Given under my hand and Notarial seal, this sixteenth
day of May A.D. 1887.

[SEAL] ALLEN J. BEAUMONT,
Notary Public.

Certificate of
recording of
foregoing deed.

STATE OF COLORADO, }
JEFFERSON COUNTY, } ss.

I hereby certify that this Deed was filed for record in
my office, at 5 o'clock P.M. May 17th 1887 and duly re-
corded in Book 46, page No. 288.

AL TOWNSEND, *Recorder.*

THE DEPOT BLOCK acquired by the foregoing deed was, ~~as~~
stated on page 429, subsequently sold and conveyed by ~~the~~
Denver and Santa Fe Ry. Co. to the Denver, Apex and
Western Ry. Co.

DEED

FROM

CHARLES C. WELCH

TO

CHARLES E. GAST, TRUSTEE,

OF FOUR HUNDRED ACRES OF MINERAL LANDS.

THIS DEED, Made this Twenty third day of March in March 23, 1887.
 the year of our Lord one thousand eight hundred and eighty Parties.
 seven between Charles C. Welch of the County of Jefferson
 and State of Colorado, of the first part, and Charles E.
 Gast, Trustee, of the County of Pueblo, and State of Colo-
 rado, of the second part:

WITNESSETH: That the said party of the first part, Granting clause.
 for and in consideration of the sum of Forty thousand
 (\$40,000.) Dollars, to the said party of the first part in
 hand paid by the said party of the second part, the receipt
 whereof is hereby confessed and acknowledged, has granted,
 bargained, sold and conveyed, and by these presents doth
 grant, bargain, sell, convey and confirm unto the said party
 of the second part, his heirs and assigns, forever, all the
 following described lots or parcels of land, situate, lying
 and being in the County of Jefferson and State of Colorado,
 to wit:

The West half ($\frac{1}{2}$) of the North East Quarter ($\frac{1}{4}$) the Description of
 South East Quarter ($\frac{1}{4}$) of the North West Quarter ($\frac{1}{4}$) the property conveyed.
 East half ($\frac{1}{2}$) of the South West Quarter ($\frac{1}{4}$) and the South
 East Quarter ($\frac{1}{4}$) of Section Three (3) and the North West
 Quarter ($\frac{1}{4}$) of the North East Quarter ($\frac{1}{4}$) of Section Ten
 (10) all in Township four (4) South of Range Seventy
 (70) West of the 6th Principal Meridian, containing
 401 $\frac{61}{100}$ acres more or less.

Deed of 400 acres
of mineral lands to
Charles E. Gast,
Trustee.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever, of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances,

Habendum clause.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

Covenants of title,
against incumbrances
and of warranty.

And the said Charles C. Welch, party of the first part, for himself, his heirs, executors and administrators, doth covenant, grant, bargain and agree to and with the said party of the second part his heirs and assigns that at the time of the ensealing and delivery of these presents, he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance in law in fee simple, and hath good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances, of whatever kind or nature soever, and the above bargained premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will warrant and forever defend.

IN WITNESS WHEREOF, The said party of the first part hath hereunto set his hand and seal the day and year first above written.

CHARLES C. WELCH. [SEAL]

Acknowledgment.

STATE OF COLORADO, }
COUNTY OF JEFFERSON, } ss.

I, Al Townsend, County Clerk in and for the said County, in the State aforesaid, do hereby certify that

Charles C. Welch who is personally known to me to be the person whose name is subscribed to the annexed Deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

Deed of 400 acres of
mineral lands to
Charles E. Gast,
Trustee.

Given under my hand and Official seal, this 28th day of March A.D. 1887.

AL TOWNSEND,

County Clerk.

[SEAL]

STATE OF COLORADO, }
JEFFERSON COUNTY, } ss.

Certificate of
recording of
foregoing deed.

This Warranty Deed was filed for Record at 10.40 o'clock A.M., April 15th 1887 and duly recorded in Book 46 Page 233.

AL TOWNSEND,

Recorder.

By GEO. TOWNSEND,

Deputy.

DEED

FROM

CHARLES E. GAST, TRUSTEE,

TO

THE DENVER AND SANTA FE RAILWAY CO.

OF FOUR HUNDRED ACRES OF MINERAL LANDS.

May 16, 1887.

Parties.

THIS DEED, Made this Sixteenth day of May in the year of our Lord One Thousand Eight Hundred and Eighty Seven between Charles E. Gast, Trustee, of the County of Pueblo and State of Colorado, of the first part, and The Denver and Santa Fe Railway Company, a corporation organized and existing under and by virtue of the laws of the State of Colorado, of the second part;

Granting clause.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One (1) Dollar to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, its successors and assigns forever, all the following described lots or parcels of land, situate, lying and being in the County of Jefferson and State of Colorado, to wit: The west half of the North east quarter, south east quarter of northwest quarter, East half of the south west quarter and the south east quarter of section Three (3) and the northwest quarter of north east quarter of Section Ten (10), in Township Four (4) South of Range Seventy (70) west of the 6th principal meridian, containing 401.88 acres more or less. Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, r

Description of property conveyed.

mainder and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever, of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

Deed of 400 acres of
mineral lands to
D. & S. F. Ry. Co.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the said party of the second part, its successors and assigns forever.

Habendum clause.

And the said Charles E. Gast, Trustee, party of the first part, for himself, his executors and administrators, does covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that at the time of the ensealing and delivery of these presents, he has good right, full power and lawful authority to grant, bargain, sell and convey the same, in manner and form aforesaid, and that the same are free and clear from all former and other liens, taxes, assessments and incumbrances, of whatever kind or nature soever; and the above bargained premises, in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof by, through, or under the said party of the first part, the said party of the first part shall and will WARRANT AND FOREVER DEFEND.

Covenants of title,
against incumbrances
and of warranty.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year above written.

Attesting clause.

CHAS. E. GAST, [SEAL]
Trustee.

STATE OF COLORADO, }
PUEBLO COUNTY, } ss.

Acknowledgment.

I, Allen J. Beaumont, a Notary Public in and for said County in the State aforesaid, do hereby certify that Charles E. Gast, Trustee personally known to me to be the

**Deed of 400 acres of
mineral lands to
D. & S. F. Ry. Co.
Acknowledgment.**

person whose name is subscribed to the annexed Deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial seal, this Sixteenth day of May A.D. 1887.

ALLEN J. BEAUMONT,

[SEAL]

Notary Public.

**Certificate of
recording of
foregoing deed.**

STATE OF COLORADO, }
JEFFERSON COUNTY, } ss.

I hereby certify that this Deed was filed for record in my office, at 5.5 o'clock P.M., May 17th 1887 and duly recorded in Book 46 page No.

AL TOWNSEND,

Recorder.

REPORT

OF

MR. JOHN E. FROST

AS TO THE FOUR HUNDRED ACRES OF MINERAL LANDS.

Atchison, Topeka and Santa Fe Railroad Company.

LAND DEPARTMENT.

TOPEKA, KANSAS, Feby. 17th, 1888. Feb. 17, 1888.

COL. A. S. JOHNSON,

*Land Comr.,**Dear Sir:*

In accordance with your instructions I met Mr. C. C. Welch at Denver and obtained from him the following information respecting the 400 acre tract belonging to The Denver & Santa Fe Railway Co. near Golden Colo. (W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ & S.E. $\frac{1}{4}$ 3, N.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ 10 & S.E. $\frac{1}{4}$ N.W. $\frac{1}{4}$ & E. $\frac{1}{4}$ S.W. $\frac{1}{4}$ Sec. 3 all in Town 4 Range 70. W.) (401 $\frac{1}{10}$ acres)

In prospecting on this land some years since Mr. Welch informs me that the Tunnel cut by him crossed Seven (7) veins of *coal*; only one vein of which — about 6 feet thick, — he thought would pay to work. The coal, formation of that region lies in perpendicular veins. The vein referred to is of that character, & contains a very fine quality of bituminous coal.

There are also on said land *Stone Quarries*, which can be developed at small expense, containing 3 distinct varieties of excellent Sand Stone available for building purposes,—one being cream-color, one white, & another variegated red and white.

There is also on said land a valuable bed of *Potters Clay*, & another of *Fire-Clay*.

Mr. Welch thinks if the D. & S. F. Ry. were extended

Report of
Mr. John E. Frost
as to the 400 acres
of mineral lands.

to Golden, and a switch track run to this land, that it would be very profitable for the company to mine the coal, and work the quarries and clay-beds; or if not advisable for the Co. to conduct these enterprises itself, he thinks that advantageous leases of the coal land could be made at a Royalty of 12½c to 15c per ton; while a Royalty for the Clay could be obtained of from 30 c to 50 c per ton. There is no one doing any mining on this land, and there is no coal stealing going on. In this connection Mr. Welch says he will keep watch and see that nothing of the sort is done.

The smoothest portion of the land,—he advises me,—is the N.W. ¼ N.E. ¼ 3. This forty probably contains no coal, but (he says) would be valuable for farm purposes if under a ditch; and that the probabilities are that the Ditch in which he is interested will soon be constructed from which the land can be irrigated. Should the town of Golden make any considerable growth said Forty might be utilized for Town lot purposes; but I do not think this is at all probable,—for the next few years at least. Mr. Welch is strongly of the opinion that this land will be greatly enhanced in value by the construction of the Denver & Santa Fe Road to Golden. He does not think that it should be sold, but that it should be kept, and either worked for the coal, stone, and clay, or leased on a royalty as hereinbefore suggested.

I also saw Mr. Gast in relation to this land; and he advises me that the title is defective owing to the fact that the title was originally derived from the Kans. Pac. Ry. and the land is within the limits of that portion of their grant to which the Interior Dept. has recently decided they have no claim. Taking all these facts into consideration I would not advise an attempt to sell any portion of the land at present.

I attach hereto a plat showing the location of the ~~land~~ as regards the City of Golden.

Yours truly,

JNO. E. FROST,

C. 

AGREEMENT

BETWEEN

THE DENVER, TEXAS AND GULF RAILROAD CO.,

THE DENVER AND SANTA FE RAILWAY CO.

AND

THE PUEBLO AND ARKANSAS VALLEY
RAILROAD CO.,

WHEREBY THE DENVER AND SANTA FE RAILWAY COMPANY ACQUIRED
CERTAIN RIGHTS OF WAY AND OTHER PRIVILEGES
AND EASEMENTS.

THIS INDENTURE OF LEASE AND AGREEMENT made and entered into this first day of June A.D. June 1, 1887.
1887, by and between THE DENVER, TEXAS & GULF RAIL- Parties.
ROAD COMPANY, a corporation under the laws of the State
of Colorado, hereinafter denominated the Denver Company,
party of the first part, and

THE DENVER & SANTA FE RAILWAY COMPANY, also a
corporation under the laws of the State of Colorado, here-
inafter denominated the Santa Fe Company, party of the
second part, and

THE PUEBLO & ARKANSAS VALLEY RAILROAD COMPANY,
also a corporation under the laws of the State of Colorado,
hereinafter denominated the Pueblo Company, party of the
third part:

WITNESSETH:—

THAT the said Denver Company in consideration of the
rents, covenants and conditions hereinafter contained, by
the said Santa Fe Company to be paid, kept and performed,
and in consideration further of the rights and privileges
hereinafter granted by the Pueblo Company, hath let and
demised, and by these presents doth let and demise to the

Lease of right of
way by D. T. & G.
to D. & S. F.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

Santa Fe Company, its successors and assigns a right of way for the construction of a single track railroad of standard gauge from the junction of the track of the Denver Company with the Circle Railroad near the southern limits of the city of Denver, and thence along the right of way of the Denver Company to the east bank of Cherry Creek near the intersection of Thirteenth and Wewatta Streets in the western division of the city of Denver, a distance of four miles or thereabouts; with full right, power and authority to construct, maintain and operate along the right of way so granted one main track of standard gauge, and to enjoy and control the said track subject only to the rents, covenants and conditions hereinafter reserved and contained to be paid, kept and performed by said Santa Fe Company, and, saving the rents, covenants and conditions aforesaid, with like effect as if the said Santa Fe Company were the owner in fee simple absolute of the said premises.

Habendum clause.

Term of 999 years.

Additional rights
granted for joint use
of D. T. & G. tracks.

TO HAVE AND TO HOLD the same to the said Santa Fe Company, its successors and assigns for the full end, term and period of nine hundred and ninety-nine years, beginning on the first day of October A.D. 1887, and ending on the thirtieth day of September A.D. 2886, and with the right in the said Santa Fe Company to unite its main track, so by it to be constructed as aforesaid, with the track of the Denver Company at the easterly end of the bridge to be constructed over Cherry Creek, as hereinafter mentioned, and to run in with its trains over the track of the Denver Company to the Union Depot, or at its election to build for the use of the said Denver Company a main track at a convenient place to be selected by the engineer of the said Denver Company, northerly of, and adjacent to the present track of the said Denver Company between the easterly end of the said Cherry Creek bridge to the junction with the tracks of the Union Depot and Railroad Company, and to turn the same when constructed over to the said Denver Company in lieu of the tracks now used and occupied by the said Denver Company, and thereafter to use, operate and control the said track now used by the said Denver Company to the junction with the tracks of

ion Depot and Railroad Company with like effect
 it the said Santa Fe Company constructed in pur-
 hereof: Provided, however, that in case the said
 e Company shall connect its said main track with the
 f the Denver Company at the east end of the said
 Creek bridge, it shall thereafter pay to the said
 Company monthly its proportion of the expense of
 nance of the track thus jointly used from the easterly
 Cherry Creek bridge to the junction of the said
 Depot track, for and so long as it, the said Santa
 npany shall jointly use the said track with the said
 Company. And the said Denver Company doth
 covenant to and with the said Santa Fe Company
 e right of way hereby let and demised as aforesaid
 e ample for the construction of one main track as
 id through the whole length and distance above
 ed: that is to say, from the junction of the track of
 id Denver Company with the track of the Circle
 id in the southerly part of the city of Denver afore-
 the junction with the tracks of the Union Depot
 ilroad Company near the Union Depot in the city
 ver; and the said Denver Company shall shift its
 between Eleventh Street in the West Division of
 of Denver and the crossing of Cherry Creek here-
 e mentioned, so as to leave room for the construc-
 the track of the said Santa Fe Company on the
 ly side of the track of the said Denver Company,
 d Santa Fe Company to pay the expense of such
 g of the tracks of said Denver Company necessary to
 lish the purpose aforesaid: Provided, nevertheless,
 is demise is on this express condition, to wit, the
 ack of the said Santa Fe Company to be constructed
 he said demised right of way shall be laid parallel
 upon the easterly and southerly side of the track
 said Denver Company, at a distance of not less than
 feet (from centre to centre) from the main track of
 ver Company, save where, in any case, by reason
 limitations upon the Denver Company in the ordi-
 granting right of way through the city, or by other

Agreement between
 D. T. & G. The
 D. & S. F. and
 P. & A. V.

Provision for
 payment of
 proportion of
 expenses of track
 jointly used.

Covenant of
 D. T. & G. as to
 sufficiency of
 right of way.

D. T. & G. to shift
 certain tracks.

D. & S. F. track to
 be parallel to track
 of D. T. & G. and
 not less than 15
 feet from centre
 to centre except
 where necessary to
 make it 13.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

Covenants of
D. & S. F.

Further covenants
of D. & S. F. as
to payment of
expenses and rent.

lawful limitation, a less distance is made necessary, and in no case shall the distance be less than thirteen feet from centre to centre.

And the said Santa Fe Company hereby covenants to and with the said Denver Company that it will construct its main track so to be constructed along the right of way granted as aforesaid, subject to the approval of the said Denver Company, and that where the track of the said Denver Company now occupies the westerly embankment of the Denver City Water Company's reservoir, it will construct an embankment to the westerly of said reservoir, and will shift the track of the said Denver Company now occupied by it at the place aforesaid to and upon said embankment, and will construct the track of it to be constructed in pursuance hereof upon and along such new embankment to the westerly of the bank of the said reservoir, so as to place the track of the said Santa Fe Company and the track of the said Denver Company to the west of the embankment of the said reservoir that it will pay the expense of such shifting of the track of the said Denver Company, and will put the same in good order in the new location thereof above specified.

The said Santa Fe Company further covenants to and with the said Denver Company to pay the reasonable cost and expense of any cross-over tracks necessary to be constructed by the said Denver Company in order to enable it to reach any side track by it already constructed upon or along the easterly or southerly side of its present main track; and to pay to the said Denver Company as rent for the said demised premises and privileges the sum of forty-five hundred dollars in each year, payable semi-annually on the first days of April and October in each year during the period thus demised together with its proportional part of all taxes and assessments levied or assessed against or upon the whole right of way (not however to exceed one hundred feet in width) and the main tracks located thereupon between the junction aforesaid with the Circle Railroad and the tracks of the Union Depot and Railroad Company in the city of Denver, together with its proportionate

part of the expense of the erection or maintenance of gates, signals, road crossings, viaducts or other improvements, or the employment of flagmen, which may be required by authority of law or by the ordinances of any municipal corporation, or by agreement of the two companies; each company shall bear and pay all taxes and assessments which may be levied or assessed against or upon its side tracks along the said right of way.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

The said Denver Company hereby covenants to and with the said Santa Fe Company not to lay any main track or parallel siding upon the easterly or southerly side of its right of way, except as hereinafter expressly provided: Provided, nevertheless, that the said Denver Company shall be entitled at any time hereafter, at its own expense, to move the track of the Santa Fe Company to be constructed in pursuance hereof to the eastward or southward within the limits of the present right of way of said Denver Company, and construct, maintain and operate one or more main tracks between the present main track of the Denver Company and the new location of the main track of the Santa Fe Company; the Denver Company in such case to be at all expense of moving, revising and rebuilding the connections of the tracks of the Santa Fe Company with other tracks, so as to put the Santa Fe Company in as good condition for the operation of its line as before such change; all such changes of track to be done under the direction of, and in such manner as may be agreed upon by the engineers of the two companies.

Further covenants
of D. T. & G.

And it is further mutually covenanted between the said Denver Company and the said Santa Fe Company that at any point between the tracks of the Union Depot [and] Railroad Company and the junction of the track of the said Denver Company with the track of the said Circle Railroad in the southerly part of the city of Denver, either company may construct side tracks connecting with any freight yards, passenger depots, reduction works, manufacturing or other business establishments of any kind; and for that purpose shall be entitled to cross the tracks of the other company for the construction of such side tracks and

Further mutual
covenants.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

switches; but at any time thereafter, upon giving notice in writing to the company constructing the same, the other company shall be entitled to the enjoyment and use of such connecting track, and shall thereafter pay to the company constructing the same, interest at the rate of five per cent. per annum on one half part of the cost thereof, including right of way and any other appurtenances constructed in connection therewith, and one half part of all taxes, assessments, and the cost of insurance, if any, made upon the structures thus used in common, and thereafter each company during the continuance of such joint use and enjoyment shall contribute to the maintenance of such connecting track and appurtenances in proportion to the use made by it thereof. It is further mutually covenanted and agreed that in case either company shall cross the main track of the other for the purpose of constructing or having the use of any such connecting track, then and in that case such company shall put in all switches necessary for the crossing, or connection of its track with, the track of the other company; but in either case the company whose line is crossed or connected with shall maintain the tracks and switches within the limit of its cross-ties at its own cost and expense. It is further mutually covenanted and agreed that any crossing made by either company of the tracks of the other shall, unless otherwise expressly agreed, be made by cross-overs or switches, and not by the use of crossing-frogs which have no switch connection with the road crossed; and in no case except at cross-overs or switches shall any track be laid nearer to the main track of either company than thirteen feet measured from centre to centre.

Definition of
connecting tracks
as used in foregoing
clauses.

All the foregoing clauses referring to construction of connecting tracks shall be construed to refer to and cover exclusively the tracks built for the purpose of reaching business tributary to the line of either company, and the privileges herein in that behalf reserved and granted to and between the said companies shall not be so construed as to include or apply to the yards of either company where cars are switched or stored, or where trains are made up and dispatched in the ordinary conduct of traffic: Provided,

however, that the said Denver Company reserves the right to cross the track of the said Santa Fe Company, to occupy any lands or lots which it now owns, or for which it hath heretofore bargained upon the easterly or southerly side of the main track of said Santa Fe Company, to be constructed in pursuance hereof, and to use and enjoy such cross-tracks for any purpose whatsoever.

And the said Denver Company hath further let and demised, and by these presents doth let and demise to the said Santa Fe Company a right of way one hundred feet in width from a junction with the main tracks of the companies referred to at some suitable point between Wazee and Wyncoop Streets, to be hereafter agreed upon by the engineers of the two companies, down and along the south bank of the South Platte River to the westerly line of Fifteenth Street in the said city of Denver, to be bounded on the westerly and northerly line thereof by a line drawn two hundred feet distant from and parallel to the line of the left bank of the said river as heretofore fixed by the final decree of the Superior Court of the city of Denver in two certain cases therein, one thereof between the said Denver Company and another as plaintiffs, and Charles D. Gurley and Roderick A. Gurley as defendants; and the other between the said Denver Company as plaintiff and the Union Pacific Railway Company and others as defendants, and bounded on the easterly and southerly side thereof by a line drawn parallel to the said before mentioned line, and one hundred feet from the same; and the said Santa Fe Company hereby covenants that within one year from the date hereof it will construct along the right of way aforesaid, and at the westerly and northerly limit above allowed, an embankment, the grade line and plan of which shall be agreed upon by the engineers of the two companies; and a like embankment up the left bank of Cherry Creek from the connection with the south bank of the Platte River aforesaid, in a southerly direction to the high grounds at some point between the Platte River and near to the most northerly track of the Burlington & Missouri River Railroad in Nebraska, and will protect such

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

Further lease by
D. T. & G. to
D. & S. F. of
right of way along
the south bank of
the South Platte
River to Fifteenth
Street.

Covenant of
D. & S. F. to construct
embankment along
said right of way
within one year, also
another embankment.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

Covenants of
D. & S. F. as to
laying tracks.

Tracks to be devoted
to joint use.

Each company to
pay one half of
taxes and
assessments.

If D. T. & G.
becomes entitled
to certain other
lands, tracks may
be changed by
that Co.

embankments against the encroachments of the river and creek by slag or other suitable material, and will construct upon said embankment along the south bank of the South Platte River, and to the west line of Fifteenth Street aforesaid, in a good and workmanlike manner, to the satisfaction of the engineer of the said Denver Company, one or more tracks, as the business of the two companies may require, extending easterly to the said west line of Fifteenth Street, with a single track bridge over Cherry Creek. And the Denver Company hereby expressly reserves the right to construct one or more tracks within the same right of way; all which said tracks, and the said bridge across Cherry Creek, and all tracks by either company hereafter constructed upon and along said right of way shall be devoted to the joint use of the two companies for the purpose of transferring thereover cars and trains to and from reduction works, stock yards, or other establishments or places which either company may desire to reach in conducting its terminal business, and for the purpose of connection with the extension of the line of either company to any point beyond Fifteenth Street aforesaid; and each company shall bear and pay one half part of all taxes and assessments, general and special, which may be levied or assessed upon the said tracks so to be constructed along the said embankment; and in case either company shall make use of any track constructed by the other along said right of way it shall pay its proportion of the cost of maintenance thereof in proportion to the use made thereof: Provided, nevertheless, that if in any appeal from the decrees aforesaid, or either thereof, it shall be established that the said Denver Company is entitled to, or if by any means the said Denver Company shall acquire the right to occupy, any lands to the northerly or westerly of the northerly or westerly limit hereinbefore fixed for the said right of way, and adjacent to the said right of way, then the said Denver Company shall be entitled upon constructing upon such lands an embankment protected in like manner as the embankment so constructed by the Santa Fe Company, and upon removing to the said new embankment

and re-establishing thereon the tracks or any of the tracks so constructed along the said right of way, to occupy solely for its own purposes a proportionate amount of the said right of way along the southerly and easterly limit thereof; and the northerly and westerly line of such new embankment along the river shall from that time and thereafter be the northerly and westerly limit of the right of way of one hundred feet in width hereby granted.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

It is hereby mutually covenanted that in case it shall hereafter be determined by either of the said companies to extend its line from the connection of the said joint tracks upon the right of way before demised to any place beyond Fifteenth Street, then and in that event the other company shall have equal rights over the said tracks as extended for the purposes of transferring thereover cars and trains to and from reduction works, stock yards, and other establishments or places which either company may desire to reach in conducting its terminal business, and for the purpose of making transfers and of exchanging cars with other companies, or for the purpose of effecting a connection of its line with any extension thereof to any point beyond Fifteenth Street aforesaid; but such equal rights shall obtain and be enjoyed only to a distance not exceeding five miles from the initial point of such extension at the west line of Fifteenth Street aforesaid, and the company making such extension shall be allowed by the other annually, five per cent. upon one half part of the cost of such extensions so used in common, and one half part of all taxes and assessments levied and assessed against the same; and each company shall bear and pay its share of the costs of maintenance of such extension in proportion to the use by it made thereof.

Provisions in
case of extensions
beyond Fifteenth
Street, see
post, p. 459.

And the said Santa Fe Company hereby covenants and agrees to and with the said Denver Company, that within six months from the execution of these presents it will construct a double track iron bridge over Cherry Creek, and a double track iron bridge over the ditch leading to the reservoir of the Denver City Water Works Company, both of the said bridges to be so placed within the right of

Covenant of
D. & S. F. to
construct double
track iron bridges
over Cherry Creek
and over the ditch
leading to the city
reservoir within
six months.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

D. T. & G. to pay
half the cost of said
bridges.

Grant by P. & A. V.
to D. T. & G. of
certain rights of
way and right to
use embankment.

Price to be fixed
hereafter, see
post, p. 463.

Further grants
by P. & A. V.

way of the Denver Company that the centre line thereof shall be midway between the main tracks of the two companies; and the said Denver Company will upon completion of the same pay to the said Santa Fe Company one half part of the cost thereof, and shall thereafter occupy and enjoy the northerly track upon the said bridges as part of its own line, and the said Santa Fe Company shall occupy and enjoy the southerly track upon the said bridges and each thereof.

And in consideration of the foregoing grants and covenants of the Denver Company the Pueblo Company grants to the Denver Company the right to connect its track with the tracks of said Pueblo Company at some convenient point west of Fountain Creek and near to the city of Pueblo, and at some convenient point near Hobson Avenue in the city of Pueblo (both to be selected by the engineers of the two companies) and a right of way, ample and sufficient for the construction, maintenance and operation of one track of standard gauge along said right of way of the Pueblo Company, and upon the northeasterly side of the tracks of the Pueblo Company, between Hobson Avenue and Fountain Creek, with the right to construct, maintain and operate upon and along the right of way so granted, one track of standard gauge for the purpose of running its trains into its local passenger depot and freight yards, and for the purpose of making connection with the trains of the Pueblo Company and the trains of other companies at the Union Depot, to be established at Pueblo aforesaid. The Denver Company shall pay to the Pueblo Company for the rights of way granted as aforesaid, and the right to use the embankment of the Pueblo Company along the said right of way, such price as may be hereafter agreed upon, or in case of failure to agree, such sum as may be fixed by arbitration.

And the Pueblo Company hereby grants to the Denver Company the right and privilege to run its passenger train over the loop of said Pueblo Company's tracks from either connection of the tracks of said Denver Company with the tracks of said Pueblo Company to and from the Union

Depot at the city of Pueblo, hereafter to be established; and the right to have its freight cars switched on and over any track of the said Pueblo Company to any reduction works, manufactory, storehouse, warehouse, or other industries in the city of Pueblo, or vicinity thereof, reached by such tracks, and that the sum and price to be paid by the Denver Company for the trackage right for such passenger trains over the loop, and the switching charges for the purposes of reaching the business establishments or industries in the city of Pueblo or vicinity thereof above referred to, shall be hereafter agreed upon; or upon failure to agree, to be determined by arbitration as hereinafter provided.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

And the said Pueblo Company hereby covenants and agrees that the said Denver Company may assign all rights of trackage and other rights at the city of Pueblo hereby granted to the said Denver Company, to the Denver, Texas & Fort Worth Company, and that the same without such assignment shall belong to and may be enjoyed by the said Denver, Texas & Fort Worth Company as a connection of the said Denver Company.

Rights granted by
P. & A. V. may be
assigned to and
used by Denver,
Texas and Fort
Worth.

It is hereby mutually covenanted and agreed that each company, party hereto, shall be responsible for any misconduct or negligence of its employees in switching across the tracks of the other company, or in operating trains on the joint tracks above referred to, resulting in damage to rolling stock or properties of the other companies, or either thereof, and each company shall bear and pay any damages to private parties resulting from the operation of its trains.

Each party to be
liable for
misconduct or
negligence of its
employees.

It is further mutually covenanted and agreed that in case either company shall refuse or fail to pay the rents, taxes, assessments and costs of maintenance, and other sum of money whatsoever herein covenanted to be paid for the enjoyment of any of the rights or privileges hereby leased, granted or reserved, the other company may at its election, after such default shall have continued for the space of six months, exclude the delinquent company from the enjoyment of the premises, rights and privileges in respect

On failure to
make payments
required by this
agreement, continued
for six months,
delinquent company
may be excluded
from rights hereunder
until such default
is made good.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

whereof such default hath occurred, until all moneys due in respect thereof, and so in default, with interest from the time when the same shall have accrued, shall be fully paid and discharged, and upon payment of all such sums as may by it be due and owing in that behalf, with interest accrued thereon from the time such moneys became due, such company shall be entitled to restoration of all the premises, rights and privileges hereby granted and reserved with like effect as if such default had not occurred.

Provision for
arbitration by one
arbitrator in case
of dispute.

In case of disagreement as to the true intent and meaning of the provisions hereof, or as to the sum or price to be paid by either company for any of the privileges herein granted to the other, or disagreement as to anything done or to be done by either company in pursuance hereof, or any liability claimed or asserted by one company against the other, such disagreement shall be settled by the award of one arbitrator to be appointed by mutual consent; and in case that within thirty days after request for the appointment of such arbitrator duly made by one company to the other in writing, agreement shall not be reached as to such arbitrator, then the District Judge of the United States for the district wherein at the time shall be situated the city of Denver in the State of Colorado, shall appoint such arbitrator on request of either company, and the award of the arbitrator so appointed, delivered in writing, shall be final and conclusive.

Covenants to be
binding on successors
and assigns.

All grants, covenants and conditions herein contained and set forth shall bind and avail to the successors and assigns of each company party hereto.

This agreement
subject to a certain
other agreement
made by the
Denver & New
Orleans R. R. Co.
with the Golden
& Salt Lake R. R. Co.

This agreement is made with full knowledge and subject to the terms, conditions and provisions of a certain other agreement made and entered into by and between the Denver & New Orleans Railroad Company, and the Denver, Golden & Salt Lake Railroad Company, dated the seventh day of October, 1881, providing among other things for a joint occupation of Wewatta Street, in the city of Denver, and the joint construction and use of a certain track through said street, and on the southerly side thereof, by the companies last above named.

The parties hereto, however, covenant that they will use their best endeavors, by negotiation or otherwise, to procure a release of any rights of the said Denver, Golden & Salt Lake Railroad Company, or its successors in interest, under the agreement aforesaid, so far as such release is necessary or desirable to carry into full and complete effect all the terms and provisions hereof. And until some change or release of the rights of the said Denver, Golden & Salt Lake Railroad Company can be made or procured, the Santa Fe Company shall occupy the middle track of the three now constructed through said Wewatta Street, in the West Division of the city of Denver, and extend the same through said street, or over any land owned or controlled by the Denver Company, to a connection with the tracks of the Union Depot Company, or to the track of the Denver Company at the east end of the bridge to be constructed across Cherry Creek, according to the election heretofore provided.

The Atchison, Topeka & Santa Fe Railroad Company, lessee of the road and properties of the Pueblo & Arkansas Valley Railroad Company, party to the foregoing indenture, hereby consents to the said indenture, and all and singular the provisions, covenants and conditions thereof.

IN WITNESS WHEREOF, the said Denver, Texas & Gulf Railroad Company, the said Denver & Santa Fe Railway Company, the said Pueblo & Arkansas Valley Railroad Company and the said Atchison, Topeka & Santa Fe Railroad Company have caused these presents to be attested by their respective corporate seals the day and year first above written.

THE DENVER, TEXAS & GULF RAILROAD COMPANY.

By JOHN EVANS,
President.

[SEAL]

Attest:

CHARLES WHEELER,
Secretary.

Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

Release from
D. G. & S. L. R. R.
Co. to be procured
if possible.

Provisions until
such release is
procured.

Atchison Co.
assents as lessee
of P. & A. V.

Attesting clause.

The D. & S. F. Ry. Co.

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Agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

THE DENVER & SANTA FE RAILWAY COMPANY.

By CHARLES C. WELCH,

[SEAL]

President.

Attest:

CHAS. E. GAST,

Secretary.

THE PUEBLO & ARKANSAS VALLEY RAILROAD COMPANY.

By WM. B. STRONG,

[SEAL]

President.

Attest:

E. WILDER,

Assistant Secretary.

ATCHISON, TOPEKA & SANTA FE RAILROAD COMPANY.

By WM. B. STRONG,

[SEAL]

President.

Attest:

GEO. L. GOODWIN,

Assistant Secretary.

SUPPLEMENT TO THE FOREGOING AGREEMENT

BETWEEN THE SAME PARTIES.

THIS AGREEMENT made and entered into this 16th day of May A.D. 1888 between the Denver, Texas & Gulf Railroad Company, a corporation organized under the laws of the State of Colorado, hereinafter nominated the "Denver Company," party of the first part, the Denver & Santa Fe Railway Company, also a corporation organized under the laws of the State of Colorado, hereinafter nominated the "Santa Fe Company," party of the second part, and The Pueblo & Arkansas Valley Railroad Company, also a corporation organized under the laws of the State of Colorado, hereinafter nominated "The Pueblo Company," party of the third part,

WITNESSETH, THAT WHEREAS, by a certain indenture of lease or agreement entered into between the said parties under date of June First, 1887, it was and is provided in words and figures as follows, to wit:

"It is hereby mutually covenanted that in case it shall hereafter be determined by either of the said companies to extend its line from the connection of the said joint tracks upon the right of way before demised to any place beyond and easterly from Fifteenth Street, then and in that event the other company shall have equal rights over the said tracks as extended for the purposes of transferring thereover cars and trains to and from Reduction Works, Stock Yards and other Establishments or places which either company may desire to reach in conducting its terminal business and for the purpose of making transfers and of exchanging cars with other companies or for the purpose of effecting a connection of its line with any extension thereof to any point beyond Fifteenth Street

May 16, 1888.

Parties.

Recital of provisions
of Agreement of
June 1, 1887, in case
of extensions beyond
Fifteenth Street.

Supplement to
agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

aforesaid, but such equal rights shall obtain and be enjoyed only to a distance not exceeding (5) five miles from the initial point of such extension at the west line of Fifteenth Street aforesaid, and the company making such extensions shall be allowed by the other annually five per cent. (5%) upon one half of part of the cost of such extension so used in common, and one half part of all taxes and assessments levied and assessed against the same, and each company shall bear and pay its share of the cost of maintenance of such extension in proportion to the use by it made thereof."

Supplemental
agreement.

NOW, THEREFORE, in consideration of the premises, and by way of supplement to the above recited agreement, the said parties have agreed and do hereby agree and covenant to and with each other as follows, to wit:

D. & S. F. to
build an extension
in an easterly
direction beyond
Fifteenth Street
to certain smelting
works and stock
yards, to be called
the "Main Line."

1st. The said Santa Fe Co. shall provide funds for and construct and complete in its own name an extension of its line from the connection of the said joint tracks at or near Fifteenth Street in the City of Denver in an easterly direction beyond said Fifteenth Street, to the Boston and Colorado Smelting Company's Works, (commonly called the Hill Works) at Argo, the Omaha and Grant Smelting Company's Works, the works of the Holden Mining and Smelting Company and to the Union Stock Yards, all near Denver aforesaid, (which shall be called the "Main Line") and any further extension of said main line for joint use shall only be made upon further agreement in writing between the parties hereto.

To be completed
Jan. 1, 1889, unless
enjoined or delayed
in securing rights
of way.

2nd. Such extension shall be completed on or before the First day of January, A.D. 1889, unless the same be prevented by an injunction or other legal process, or by necessary delays incidental to securing the right of way.

D. T. & G. to be
entitled to joint use
of such extension.

3rd. The Denver Company shall be entitled to use and enjoy the said extension jointly and equally with said Santa Fe Company, and to pass with its engines, cars and trains over the same to and from the several industrial works reached by the said Main Line, under such reasonable rules and regulations for the government of the trains

moving thereon as the said Santa Fe Company may establish.

4th. Upon completion of the said extension, a particular statement of the cost thereof, verified by the Auditor and certified by the Chief Engineer of the said Santa Fe Company, shall be furnished to the Denver Company, and the Denver Company shall pay to the said Santa Fe Company, semi-annually, on the first days of April and October, for the enjoyment of the rights and privileges hereby granted, five per cent. (5%) of one half of the cost so certified.

Supplement to agreement between D. T. & G., The D. & S. F. and P. & A. V.

Upon completion the cost to be certified, and D. T. & G. to pay semi-annually 5 per cent. of such certified cost.

5th. Either company shall have the right at its own option to construct such sidings as it may deem proper not exceeding, unless otherwise mutually agreed, four thousand feet (4,000) in length from any point on the Main Line above indicated, provided such sidings are constructed for the purpose of reaching industrial works only. On construction of such sidings the other party may, if it so elects, and upon serving written notice upon the other, and upon payment of one half of Interest Account at the rate of five per cent. (5%) per annum, to be ascertained in the same manner as hereinbefore mentioned in respect of the cost of the main track and also one half of the taxes upon such sidings from the date of such notice, enjoy and use the same jointly with the constructing company provided that it also pay for the maintenance of such siding in accordance with its use of same, to be ascertained by an account of the wheelage as hereinafter specified; settlement and payment of such cost of maintenance to be made monthly.

Provisions for the construction of sidings by either company.

6th. In case an iron bridge or bridges shall be found necessary for the crossing of the Platte River in constructing said extension, the cost thereof, certified in like manner as aforesaid, shall be added to the first statement of the Capital Account after deducting therefrom the first cost of the pile or temporary bridge first constructed.

If iron bridge or bridges over Platte River found necessary, cost of these may be certified in like manner.

7th. The cost of maintaining the said Main Line, with the sidings so used in common, in serviceable condition, shall be borne and paid monthly by the said companies,

Cost of maintaining Main Line to be borne equally.

Supplement to
agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.
What shall be
maintenance charges
and what considered
as operating expenses.

each to the other, in proportion to the use by them made of the said joint tracks on or before the twenty-fifth (25th) day of each month for the maintenance charges of the previous month; the use of said joint tracks to be adjusted upon a wheelage basis. Taxes, cost of viaducts, over or under grade, flagmen and such police or other expenses as may be required by authority of law, shall be paid monthly at the time provided for payment of maintenance charges, one half by the said Denver Company, and one half by the said Santa Fe Company, but all other expenses necessary for the maintenance of such property in good and serviceable condition shall be considered as operating expenses and paid by the respective companies in accordance with the use made by them of the said joint tracks, excepting, however, that if the switching or transfer business of the said Main Line shall at any time require a double track, then the cost of such track and all necessary rights of way and franchises, shall be added to the Capital Account above provided, upon presentation of statement of cost verified by the Auditor of the Santa Fe Company and certified by its Chief Engineer as aforesaid.

Provisions in case
of extensions beyond
said Main Line by
either party.

8//. Any extension for joint use of the Main Line herein provided for within a distance of five (5) miles from the initial point at the west line of Fifteenth Street aforesaid, shall be controlled by the same terms and conditions as herein recited governing such joint use. In case either party hereto shall elect on its own account to construct an extension of the said Main Line, it is agreed that the business thus brought upon the Main Line herein provided for shall not interfere with the use of said Main Line for the purpose of switching or transfers, and it is further agreed that if the capacity of the said Main Line shall be exceeded by reason of the traffic arising upon the extensions, then the company owning such extension shall, at its own cost and expense, double track the main line herein provided for, or such portion as the traffic arising upon such extension passes over.

Operating party may
make reasonable
rules and regulations.

9//. In the operating of the said Main Line and sidings the proprietor shall have the right to establish reason-

able rules and regulations governing all trains working or moving upon such Main Line or sidings.

10th. Each company shall be solely responsible for all damages occasioned to persons or property by reason of any misconduct or negligence of its employees in the use or enjoyment of the said joint tracks or any part thereof, and each company shall bear and pay all damages to private parties resulting from such negligence or otherwise by the operation of its trains upon the said joint tracks or any part thereof.

11th. Neither Company shall license or authorize any other company or person to run any engines or cars over any part of the said Main Line or sidings so used in common without the full consent of the other party in writing, subscribed by its President or chief Managing Officer.

AND WHEREAS, the original agreement between the parties hereto hereinbefore referred to provides in words and figures as follows, to wit:

"And in consideration of the foregoing grants and covenants of the Denver Company, the Pueblo Company grants to the Denver Company the right to connect its track with the tracks of said Pueblo Company at some convenient point west of Fountain Creek, and near to the City of Pueblo, and at some convenient point near Hobson Avenue in the city of Pueblo (both to be selected by the engineers of the two companies, and a right of way, ample and sufficient for the construction, maintenance and operation of one track of standard gauge along said right of way of the Pueblo Company, and upon the northeasterly side of the tracks of the Pueblo Company, between Hobson Avenue and Fountain Creek, with the right to construct, maintain and operate upon and along the right of way so granted one track of standard gauge for the purpose of running its trains into its local passenger depot and freight yards, and for the purpose of making connection with the trains of the Pueblo Company and the trains of other companies at the Union Depot, to be established at Pueblo aforesaid. The Denver

Supplement to agreement between D. T. & G., The D. & S. F. and P. & A. V.

Each company to be liable for misconduct or negligence of its employees.

Neither company to authorize other persons to use Main Line or sidings without written consent of the other party.

Recital of provisions of agreement of June 1, 1887, granting rights of way and other rights by the P. & A. V. to the D. T. & G., the price of which was to be fixed thereafter.

Supplement to
agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

D. T. & G. to pay the
same rate per mile
that D. & S. F. pays
under the original
agreement.

When P. & A. V.
completes loop
line, D. T. & G. may
use it by paying
one dollar per train
per mile.

If either makes
default in payment
hereunder continued
for six months,
delinquent company
may be excluded from
enjoyment of rights
hereunder until such
default is made good.

Company shall pay to the Pueblo Company for the rights of way granted as aforesaid and the right to use the embankment of the Pueblo Company along the said right of way, such price as may hereafter be agreed upon, or in case of failure to agree, such sum as may be fixed by arbitration."

NOW, THEREFORE, IT IS MUTUALLY AGREED,

12th. That the Denver Company shall pay to the Pueblo Company for the use of its right of way at Pueblo according to the grant aforesaid, the same rate per mile as in the said original agreement specified to be paid by the Santa Fe Company for the right of way at the City of Denver.

13th. It is further agreed that upon completion of its loop line by the Pueblo Company, the Denver Company shall have the right to run its passenger trains over the said loop line of the Pueblo Company to and from the Union Depot at Pueblo hereafter to be established as provided in said original agreement by paying to the Pueblo Company One Dollar (\$1.00) per train per mile for such enjoyment of said loop line.

14th. In case either company shall fail or refuse to pay the rents, taxes assessments and cost of maintenance, or other sum of money whatsoever herein covenanted to be paid for the enjoyment of any of the rights or privileges hereby (or hereafter in pursuance hereof) granted, leased or extended to it, the other company may, at its election, after such default shall have continued for the space of six (6) months, exclude the delinquent company from the enjoyment of the premises, rights and privileges in respect whereof such default hath occurred, until all moneys due in respect thereof and so in default with interest from the time when the same shall have accrued, be fully paid and discharged, and upon payment of all such sums as may by it be due and owing in that behalf, with interest accrued thereon from the time when such moneys become due, such company shall be entitled to restoration of all the premises, rights and privileges hereby (or hereafter in pursuance hereof) granted, demised and leased with like effect

as if such default had not occurred; but, provided that no default in respect of the rights and privileges hereby granted to either company at Pueblo, as aforesaid, shall exclude such company from the enjoyment of the rights and privileges aforesaid at Denver, nor shall any default in respect of any of the said rights and privileges so granted at Denver be deemed to exclude the delinquent company from the enjoyment of such rights and privileges so granted at Pueblo.

Supplement to
agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

15th. This Supplemental Agreement shall be governed by the same arbitration clause as provided in the original agreement to which this is supplemental.

Same arbitration
provision adopted as
in original agreement.

16th. All grants, covenants and conditions herein contained shall bind and avail to the successors and assigns of each party hereto.

Covenants and
conditions to be
binding on successors
and assigns.

17th. All the rights of trackage and other rights and privileges hereby granted to the said Denver Company shall avail to the Denver, Texas & Fort Worth Railroad Company, and all the rights and privileges granted to the Santa Fe Company hereby shall avail to the Atchison, Topeka & Santa Fe Railroad Company, without assignment thereof to either of said companies.

Rights hereunder
may be used by the
Denver, Texas &
Fort Worth R.R. Co.
and Atchison Co.,
respectively, without
assignment.

IN WITNESS WHEREOF, the said Denver, Texas & Gulf Railroad Company hath caused these presents to be subscribed by John Evans its President, and the said Denver & Santa Fe Railway Company hath caused these presents to be subscribed by Wm. B. Strong its President, and the said The Pueblo & Arkansas Valley Railroad Company hath caused these presents to be subscribed by Wm. B. Strong its President, and each of the said companies hath caused its corporate seal to be hereunto affixed the day and year first above written.

Attesting clause.

THE DENVER, TEXAS & GULF RAILROAD COMPANY.

By JOHN EVANS,
Its President.

[SEAL]

Attest:

CHARLES WHEELER,
Secretary.

The D. & S. F. Ry. Co.

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Supplement to
agreement between
D. T. & G., The
D. & S. F. and
P. & A. V.

THE DENVER & SANTA FE RAILWAY COMPANY.

By WM. B. STRONG,
Its President.

[SEAL]

Attest:

E. WILDER,
Secretary.

THE PUEBLO & ARKANSAS VALLEY RAILROAD COMPANY,

By WM. B. STRONG,
Its President.

[SEAL]

Attest:

E. WILDER,
Secretary.

Denver, Texas &
Fort Worth R.R. Co.
assents to both of the
foregoing agreements,
and agrees to become
a party thereto.

Referring to the foregoing agreement, the Denver, Texas & Fort Worth Railroad Company named therein, and particularly in the Seventeenth Article thereof, to the end that it may have the benefit of the rights and privileges provided for in its behalf in the foregoing agreement as well as in the agreement of June First, A.D. 1887, hereby assents to each and both of the said agreements and becomes a party thereto with the consent of all the other parties to the said agreement.

Attesting clause.

In token of which the said Denver, Texas & Fort Worth Railroad Company has caused these presents to be subscribed by its President and to be attested by its Asst. Secretary under its corporate seal this 24th day of May A.D. 1888.

May 24, 1888.

THE DENVER, TEXAS & FORT WORTH RAILROAD COMPANY.

By SIDNEY DILLON,
President.

[SEAL]

Attest:

J. T. GRANGER,
Assistant Secretary.

Referring to the foregoing Agreement, the Atchison, Topeka and Santa Fe Railroad Company named therein, and particularly in the Seventeenth Article thereof, to the end that it may have the benefit of the rights and privileges provided for in its behalf in the foregoing Agreement, as well as in the Agreement of June First A.D. 1887, hereby assents to each and both of the said Agreements and becomes a party thereto with the consent of all the other parties to the said Agreement.

Atchison Co.
assents to both of
the foregoing
agreements, and
agrees to become
a party thereto.

In token of which the said Atchison, Topeka & Santa Fe Railroad Company has caused these presents to be subscribed by its President and to be attested by its Secretary under its corporate seal, this 16th day of May A.D. 1888.

Attesting clause.

May 16, 1888.

ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY,

By WM. B. STRONG,

President.

[SEAL]

Attest:

E. WILDER,

Secretary.

AGREEMENT

WITH

THE BOSTON-DENVER IMPROVEMENT COMPANY

AS TO CONSTRUCTION OF THE

SHERIDAN HEIGHTS EXTENSION.

Explanation in regard
to the following
agreement.

[A document purporting to be a copy of the following Agreement between The Boston-Denver Improvement Company, so called, and The Denver and Santa Fe Railway Company in regard to the construction of the extension to Sheridan Heights is on file in the office of the Atchison Company. The terms of the agreement appear to have been carried out on both sides, but there is nothing to be found in the records of The Denver and Santa Fe Railway Company or of the Atchison Company in regard to this Agreement, and there is nothing to show whether The Boston-Denver Improvement Company was a corporation, and if so, under the laws of what state it was organized.]

Sept. 3, 1888.
Parties.

This agreement made and concluded this 3rd day of September, A.D. 1888, by and between The Boston-Denver Improvement Company, party of the first part, and The Denver & Santa Fe Railway Company, party of the second part, both corporations organized, created and existing under and by virtue of the laws of the State of Colorado, WITNESSETH:

Improvement Co.
interested in securing
extension to Sheridan
Heights.

Whereas the said Improvement Company is interested in securing an extension of what is commonly known as the Denver Circle Railroad from its present terminus in Jewell Park, to the Boulevard on Sheridan Heights,

Agreement.

NOW THEREFORE, the parties hereto agree as follows:

1. The said Improvement Company agrees, with all practicable speed to procure at its own cost, the right of way for such extension, and vest a good and sufficient title to such right of way in the said Railway Company, together with appropriate Station Grounds the said right of way and station grounds to be of suitable width and dimensions as may be determined by the said Railway Company, and the said right of way to commence at the crossing of the tracks of the Denver and Rio Grande Railroad and the said The Denver Circle Railroad near Jewell Park, and to extend on a route selected by said Railway Company, via Sheridan Heights, to the Military post on Bear Creek southwest of Denver, known as Camp Sheridan.

Agreement of
D. & S. F. Ry. Co.
with Boston-Denver
Improvement Co.

2. The said Improvement Company hereby agrees at its own cost, to grade and bridge so much of the said extension as lies between the present terminus of the said Denver Circle Railroad in Jewell Park, and the Boulevard on Sheridan Heights, the same to be done in accordance with plans and specifications furnished by and under the supervision of the Chief Engineer of the said Railway Company, it being understood, however, that the said plans and specifications shall not call for anything more than bridges constructed of piles and trestles.

Improvement Co.
agrees to grade
and bridge the
extension to
Sheridan Heights.

3. The bridges referred to herein shall be constructed by the said Railway Company but shall be paid for as above provided by the said Improvement Company according to itemized bills of the cost of the same and on the presentation thereof.

Bridges to be of
piles and trestles.

The bridges to be
constructed by the
Ry. Co. but paid for by
the Improvement Co.

4. The said Improvement Company also agrees within twelve months from the date of this contract to build a stone passenger station, the plans for which are to be approved by the Chief Engineer of the said Railway Company, on the block of land at the southeast corner of Jeffries and Sheridan Avenues in Sheridan Heights, on the northwest side of the main track of said road as shall be designated by the Manager or other competent officer of said Denver Circle Railway Company, the said station not to cost less than Twenty five hundred dollars exclusive of the transportation of the stone, which stone the Railway

Improvement Co.
agrees also to build
a stone passenger
station at Sheridan
Heights, not to cost
less than \$2,500.

Ry. Co. to transport
the stone.

Agreement of
D. & S. F. Ry. Co.
with Boston-Denver
Improvement Co.

Company hereby agrees to transport between Denver and the site of said Depot, at its own cost, that is to say; the said Railway Company agrees to haul the said stone over its road between the points aforesaid free of charge, but the said Improvement Company is to pay the first cost of the stone and all expense of transfers.

Said passenger
station to belong
exclusively to the
Ry. Co., except that
Improvement Co.
may have an office
there for 18 months.

5. The said passenger station so to be erected shall be located on the grounds for which a good and sufficient title is to be vested in the said Railway Company as a part of its right of way and station grounds, and the same shall be the exclusive property of the Railway Company, subject to this condition however, that for a period of eighteen months from the time of the completion of the said depot building the said Improvement Company may provide for itself in the said building a business office, and use and enjoy the same for such purpose for the time aforesaid free of rent charge.

Ry. Co. agrees to
lay its track on
said extension
within 90 days after
grading and bridging
have been completed,
and to run at least
four trains a day.

6. The said Railway Company hereby agrees that it will lay and maintain its track from the present terminus of the said Denver Circle Railroad at Jewell Park, to the depot site herein provided for, near the Boulevard on Sheridan Heights, and have the same completed and ready for operation within Ninety days from the date when the right of way aforesaid has been secured and the grading and bridging of the said road bed completed as above provided, and shall thereafter and at all times maintain and operate the said railroad, giving a service of at least four trains daily to and from said Sheridan Heights and the City of Denver.

Attesting clause.

IN WITNESS WHEREOF the said Companies, parties hereto, have caused this instrument to be executed and attested under their respective corporate seals the day and year aforesaid.

THE BOSTON-DENVER IMPROVEMENT COMPANY.

By JOHN M. BERKEY,

[SEAL]

President.

Attest:

CHARLES G. GUION,

Secretary.

THE DENVER AND SANTA FE RAILWAY COMPANY.

By WM. B. STRONG,

[SEAL]

President.

Attest:

C. S. TUCKERMAN,

*Asst. Secretary.***BOND**

TO SECURE THE PERFORMANCE BY THE

BOSTON-DENVER IMPROVEMENT COMPANY

OF THE FOREGOING AGREEMENT.

Bond to secure
the performance
of the foregoing
agreement.

KNOW ALL MEN BY THESE PRESENTS, That
The Boston-Denver Improvement Company, principal, and
Frank M. Brown, S. V. Farnum and John M. Berkey as
sureties, are firmly held and bound unto The Denver and
Santa Fe Railway Company in the penal sum of Fifteen
thousand dollars, to the payment of which they bind them-
selves, their successors, heirs, executors and adminis-
trators.

Parties.

Penalty \$15,000.

WITNESS our hands and seals this 3d day of September
A.D. 1888.

Sept. 3, 1888.

The condition of this obligation is such, that if the said
The Boston-Denver Improvement Company, principal,
shall in all things do and perform the covenants and condi-
tions specified in the foregoing contract, by it to be done
and performed, and shall in all things perform the said
contract according to its true tenor, meaning and effect,
then this obligation to be void, otherwise to remain in full
force and effect.

Condition of bond,
that Improvement Co.
shall perform
foregoing contract.

And it is especially understood that if the said Railway
Company does not extend its line of railway from the
Boulevard on Sheridan Heights to the Military Post on
Bear Creek, known as Camp Sheridan, within five years
after the date hereof, then the obligation of the said
Improvement Company to procure at its own cost the right

If Ry. Co. does not
build extension to
Camp Sheridan
within five years,
Improvement Co.
is released from
obligation to procure
right of way for it.

Bond to secure
performance by
the Denver
Improvement Co.
of the foregoing
agreement.

of way between the points last aforesaid shall cease and determine, but if the said Railway is extended within the time aforesaid to Camp Sheridan, then the said Improvement Company shall vest, or cause to be vested in the said Railway Company, a good and sufficient title to the right of way aforesaid; and any bonds options or conditional deeds for such right of way now, or hereafter accepted by the said Railway Company, shall not be construed in lieu of or as changing or affecting the obligation of the said Improvement Company in the respect aforesaid.

FRANK M. BROWN. [SEAL]

S. V. FARNUM. [SEAL]

JOHN M. BERKEY. [SEAL]

THE BOSTON-DENVER IMPROVEMENT COMPANY.

By JOHN M. BERKEY,

[SEAL]

President.

Attest:

CHARLES G. GUION,

Secretary.

CAPITAL STOCK
OF
**THE DENVER AND SANTA FE RAILWAY
COMPANY.**

SUBSCRIPTIONS
TO THE CAPITAL STOCK OF
**THE DENVER AND SANTA FE RAILWAY
COMPANY.**

EXTRACT FROM THE RECORD OF THE FIRST MEETING OF THE
DIRECTORS OF THE DENVER AND SANTA FE RAILROAD
COMPANY, HELD AT DENVER, COLORADO, ON MARCH 23,
1887.

Subscriptions were then invited to the Capital Stock of
the Company, and the following stock was then and there
subscribed:

Charles E. Gast, Trustee,	34,993 shares
T. C. Henry,	1 share
E. T. Alling,	1 "
B. F. Crowell,	1 "
J. E. Conduct,	1 "
C. C. Welch,	1 "
Chas. L. McIntosh,	1 "
Edward F. Bishop,	1 "

For reduction of the subscription of Charles E. Gast,
Trustee, from 34,993 shares to 14,993, see *post*, pp. 511, 515.

ISSUES OF CAPITAL STOCK
OF
**THE DENVER AND SANTA FE RAILWAY
COMPANY**

AND CANCELLATION OF SEVEN SHARES THEREOF.

Issued on November 28, 1887 to Charles E. Gast, Trustee,
15,000 shares, \$1,500,000

Issued on November 28, 1887 to

T. C. Henry,	1 share
E. T. Alling,	1 "
B. F. Crowell,	1 "
J. E. Conduct,	1 "
C. C. Welch,	1 "
C. L. McIntosh,	1 "
E. F. Bishop,	1 "

7 shares, 700

\$1,500,700

Cancelled by vote passed by the Executive Committee of
the Denver and Santa Fé Railway Company on Oc-
tober 2, 1888, 7 shares,

700

TOTAL AMOUNT OF STOCK ISSUED, . . . \$1,500,000

FIRST MORTGAGE

OF

THE DENVER AND SANTA FE RAILWAY
COMPANY.

THIS INDENTURE made on this 4th day of May in the year of our Lord one thousand eight hundred and eighty-seven between THE DENVER AND SANTA FE RAILWAY COMPANY, a corporation established under the laws of the State of Colorado, and hereinafter called the Railway Company, and ARTHUR F. LUKE of Newton in the County of Middlesex, WILLIAM P. ELLISON of said Newton, and GEORGE A. BURDETTE of Brookline in the County of Norfolk, all in the Commonwealth of Massachusetts, Trustees hereunder and hereinafter called the Trustees, May 4, 1887.
WITNESSETH: Parties.

THAT WHEREAS the said Railway Company was incorporated for the purpose of constructing, maintaining and operating a line of railway and telegraph, with such branches as might thereafter be determined upon, beginning at the city of Pueblo, in Pueblo County, following thence in a general northerly direction along the *Fontaine qui Bouille* to Colorado Springs, and in the same general direction and by the most practicable route to Denver, and thence to the city of Golden, in Jefferson County, all in the State of Colorado; and for the purpose aforesaid to purchase at foreclosure sale, or otherwise, the railroads, property and franchises of The Denver Circle Railroad Company, to lay a third rail thereon, and to operate the same in and around the City of Denver, and to purchase such other railway property, interests, or real estate contiguous to the route indicated as might be needed for terminal or other railroad purposes; Corporate purposes and authorized lines.

First Mortgage
D. & S. F. Ry. Co.
Proposed issue of
First Mortgage Bonds.

AND WHEREAS the said Railway Company by votes of its Board of Directors and of the shareholders representing more than a majority of its stock has resolved, for the purposes of completing, furnishing, improving and operating its said line of railway and of discharging any indebtedness contracted for the said purposes, to issue and dispose of its first mortgage six per cent. gold bonds limited to twenty-five thousand dollars per mile of railroad, and to secure the payment of said bonds by a mortgage or deed of trust of all its corporate property and franchises to the said Luke, Ellison and Burdette as Trustees;

AND WHEREAS the said bonds though issued and sold at different times are all to be dated the first day of June A.D. 1887 and payable on the first day of June A.D. 1936 and are to be equally secured by said mortgage or deed of trust, and are to be authenticated by a certificate upon each, signed by two of the Trustees hereunder, to the effect that the bond so certified to is one of the series issued under and described in the said mortgage or deed of trust, without which certificate no bond is to be deemed to be so issued:

Forms of bonds.

AND WHEREAS said bonds are to be issued from time to time in two forms at the discretion of the directors of said Railway Company:

First.—For the amount of one thousand dollars each, with coupons attached, the bonds but not the coupons being subject to registration from time to time at the option of the holder;

Second.—In the form of registered bonds for any multiple of one thousand dollars, without coupons, both principal and interest of which shall be payable to the registered holder; such bonds being exchangeable for said one-thousand-dollar coupon bonds, at any time, on sixty days' notice to the said Railway Company;

The form of registered bonds to be as follows:—

[FORM OF REGISTERED BOND.]

First Mortgage
D. & S. F. Ry. Co.Form of registered
bond.

UNITED STATES OF AMERICA.

THE DENVER AND SANTA FE RAILWAY COMPANY.

Nos. _____ \$ _____

FIRST MORTGAGE
REGISTERED SIX PER CENT. BOND.

KNOW ALL MEN BY THESE PRESENTS, That The Denver and Santa Fe Railway Company, a corporation established under the laws of the State of Colorado, acknowledges itself indebted to the registered holder hereof in the sum of _____ Thousand Dollars, which sum said Railway Company promises to pay to such registered holder on the first day of June, one thousand nine hundred and thirty-six, and also interest thereon, at the rate of six per cent. per annum payable semi-annually on the first days of June and December in each year until said principal sum shall be paid, both principal and interest being payable in gold coin of the United States of America or its equivalent, at the agency of said Railway Company in Boston, or at such other place as its directors may hereafter designate.

No recourse shall be had for the payment of the principal or interest of this bond to any stockholder, officer or director of said Railway Company either directly or through the said Railway Company by virtue of any statute or by the enforcement of any assessment or otherwise.

This bond is one of the First Mortgage Bonds of the said Railway Company, which bonds are limited to twenty-five thousand dollars per mile of railroad and are secured by Mortgage or Deed of Trust bearing date the 4th day of May A.D. one thousand eight hundred and eighty-seven duly executed and delivered by the said Railway Company to Arthur F. Luke, William P. Ellison and George A. Burdette as Trustees, conveying to the said Trustees all the corporate property and franchises of the said Railway Company, in trust, to secure the punctual payment of the principal and interest of the said First Mortgage Bonds. This bond is transferable only on the books of the said Railway Company at its agency in Boston, or at such other

First Mortgage
D. & S. F. Ry. Co.
Form of registered
bond.

place as its directors may hereafter designate. It is exchangeable at par at any time, on sixty days' notice to the said Railway Company, for bonds for the amount of one thousand dollars each, with coupons attached, issued under and in conformity with the terms of said mortgage, such bonds to be respectively numbered with the several numbers embraced in this bond.

This bond shall be valid only when authenticated by the certificate hereon of two of the said Trustees or their successors in the Trust, that it is one of the series of bonds issued under and described in the said Mortgage or Deed of Trust.

IN WITNESS WHEREOF the said Railway Company has caused its corporate seal to be hereto affixed and these presents to be signed by its Comptroller and attested by its Assistant Treasurer on this first day of June one thousand eight hundred and eighty-seven.

THE DENVER AND SANTA FE RAILWAY COMPANY.

By

Comptroller.

Attest:

Assistant Treasurer.

TRUSTEES' CERTIFICATE.

We, being two of the Trustees under the within named Mortgage or Deed of Trust, hereby certify that this bond is one of the series of bonds issued under and described in the said Mortgage or Deed of Trust.

} *Trustees.*

Description of
coupon bonds.

And the form of the one thousand [dollar] coupon bonds to contain provisions similar to those contained in the foregoing form of registered bond, except that said coupon bonds shall have coupons attached and be made payable to the bearer or registered holder thereof and contain a provision, that the bond, but not its coupons, shall be subject to reg-

istration from time to time, at the option of the holder, and, if registered, shall pass only by transfer upon the books of said Railway Company, unless the last transfer shall have been made and registered to bearer, in which case the bond shall again pass by delivery until again registered, and that the coupons shall in all cases be payable to bearer, whether the bond itself is registered or not.

First Mortgage
D. & S. F. Ry. Co.

NOW THEREFORE said THE DENVER AND SANTA FE RAILWAY COMPANY, in consideration of the premises and of the acceptance by the said Trustees of the trust hereby created, in order to secure the payment of the principal and interest of its said First Mortgage Bonds as the same shall become payable according to the tenor of said bonds and of the coupons thereto annexed, DOth by these presents GRANT, BARGAIN, AND SELL, CONVEY, TRANSFER, AND ASSIGN unto the said Trustees, their successors in the trust and assigns, all the property, franchises and privileges of the said Railway Company, which it now has or hereafter may acquire, and all its right, title, and interest therein, to wit:

Granting clause.

All its railroads, telegraphs, and telephones already located and constructed or purchased, or in process of construction, or to be hereafter constructed or purchased, upon its line of railway as hereinbefore described or which it is or shall be entitled to locate and construct or purchase:

Description of
railroads and property
mortgaged.

Being a line of railway and telegraph with such branches as may hereafter be determined upon, beginning at the city of Pueblo, in Pueblo County, following thence in a general northerly direction along the *Fontaine qui Bouille* to Colorado Springs, and in the same general direction and by the most practicable route to Denver, and thence to the city of Golden, in Jefferson County, all in the State of Colorado; including all the railroads property and franchises of The Denver Circle Railroad Company and Denver Circle Real Estate Company which have been or hereafter may be lawfully acquired by the said Railway Company by purchase at foreclosure sale or otherwise:

Together with all the property and rights appertaining to the said line of railway and telegraph and its branches or the equipment and operation thereof:

**First Mortgage
D. & S. F. Ry. Co.**

Including all railroads, telegraphs, telephones, road-beds, superstructures rails, switches, ties, iron, chairs, bolts, splices, lands, depot grounds, station, engine and car houses, warehouses, depots, machine shops, and all other buildings; all water tanks, viaducts, culverts, bridges, fences, and timber, and all materials and supplies for the construction and equipment of said railroads, telegraphs and telephones; all engines, tenders, cars, and all kinds of rolling stock; all ways, rights of way, franchises, rights, privileges, and immunities, now or hereafter pertaining to said railroads, telegraphs and telephones, or the appurtenances and appendages thereof; and all property, real and personal, whether now possessed or hereafter acquired by the said Railway Company for the purposes of the construction, equipment or operation of the said railroads, telegraphs, and telephones; and all the revenue, income and profits of the said Railway Company which have been or may be derived from said mortgaged property.

Habendum clause.

TO HAVE AND TO HOLD all and singular the premises hereinbefore and hereby granted, bargained and sold, conveyed, transferred and assigned, and every part and parcel thereof, with all the appurtenances in any wise thereunto belonging and appertaining, to the said Trustees, their successors in said trust and assigns, to their own use and behoof forever.

IN TRUST, NEVERTHELESS, to and for the uses and purposes and upon the conditions hereinafter set forth:—

Defeasance clause.

First.— These premises are upon the express condition that upon the payment of the principal and interest of all of said First Mortgage Bonds, according to their tenor, then, and in that case, all the estate, right, title and interest of the said Trustees, or their successors in the trust, shall cease, determine and become void, and all the property and rights herein granted shall revert to and revest in the said Railway Company, its successors and assigns, without any acknowledgment of satisfaction, reconveyance, re-entry or other act.

**Possession of
mortgagor until
default.**

Second.— Until default shall be made in the payment of the principal or interest of the said bonds, or any of them,

or until default shall be made in respect to something by these presents required to be done by the said Railway Company, the said Railway Company shall be suffered and permitted to possess, manage, operate and enjoy the said hereinbefore granted railroads, telegraphs and telephones, and every part thereof, with their equipments and appurtenances, and to take and use the tolls, income, rents, issues and profits thereof in the same manner and with the same effect as if this deed had not been made.

First Mortgage
D. & S. F. Ry. Co.

Third.—The Trustees shall have full power, in their discretion, upon the request of the said Railway Company, to convey by way of release or otherwise to the persons designated by the said Railway Company any lands or real estate which, in their judgment and that of the said Railway Company, it has become expedient to sell or dispose of for the purposes of the road; *provided* that the proceeds of all such sales of real estate shall be applied to the construction, improvement or equipment of the railroads and permanent property of the said Railway Company. For the purpose of making such sales of real estate, the Trustees upon the request of the said Railway Company may designate such portions of the real estate of the said Railway Company as they deem it expedient, in the interests of the said Railway Company and of the holders of the bonds secured hereby, to sell and dispose of for the purpose of applying the proceeds thereof as aforesaid. The Trustees may by a power of attorney under their hands and seals appoint an agent or attorney to execute and acknowledge in their names and behalf as such Trustees, upon the request of the said Railway Company, all conveyances, deeds, and releases required for conveying or releasing to any purchaser from the said Railway Company any part, lot or parcel of such portions of the real estate of the said Railway Company as shall have been designated for sale as aforesaid by the Trustees.

Power of Trustees to
release real estate.

Trustees on request
of Ry. Co. may
designate portions of
real estate for sale.

Trustees may appoint
agent or attorney to
execute releases of
lands designated
for sale.

Until default as aforesaid, the said Railway Company may sell, exchange or otherwise dispose of such materials, rolling stock and other movable property as have become old, worn out, disused or undesirable, or are not needed

Provisions in regard
to sale and renewal
of rolling stock and
movable property.

**First Mortgage
D. & S. F. Ry. Co.**

for the purposes of the road, renewing the same or substituting therefor other property of equal or greater value, the said new materials and property thus substituted being covered by and subject to this mortgage.

**Ry. Co. may make
agreement in regard
to its telegraph or
telephone lines.**

Fourth.— Nothing in this Mortgage or Deed of Trust contained shall prevent the said Railway Company from making or carrying out any agreement or arrangement for the building, management, or operation of its telegraph or telephone lines or any part thereof.

**On default continued
for 60 days, Trustees
may enter and take
possession.**

Fifth.— In case the said Railway Company shall fail to pay the principal, or any part thereof, or any instalment of interest, or any part thereof, of any of the bonds secured or intended to be secured hereby, when and where the same shall become due and payable according to the tenor and effect thereof, and for sixty days thereafter, or shall fail to pay and discharge within a reasonable time all taxes, charges, rates, levies and assessments which have been or may hereafter be imposed, assessed or levied upon the mortgaged premises, franchises or property or shall fail, after sixty days' notice from said Trustees, to keep said property in reasonable repair and condition,— then, and in any such case, the said Trustees, their successors in said trust, and assigns, shall, upon the demand in writing of a majority in interest of the holders of said bonds as hereinafter provided, or otherwise may at their discretion, enter upon and take possession of all and singular the said mortgaged premises and property herein mentioned or described, and by themselves or their agents duly constituted, have, use, operate and enjoy the said railroads and property, and the appurtenances thereto belonging and proper for their use, making from time to time all repairs, alterations and additions thereto by the said Trustees deemed needful, and paying all taxes due upon the same, and, after deducting the expenses of all such repairs, alterations, additions and taxes, and all sums necessary for their indemnification and reasonable compensation, apply the net income of the said premises and property to the payment *pro rata* of the interest of all of said bonds from time to time due and unpaid, and of the principal when

due either by the terms of the said bonds or under the provisions of this Indenture, and may retain and continue such possession and use until the whole of the interest and principal of all of said bonds shall be paid, or may procure the appointment of a receiver and the application of the net income as aforesaid.

First Mortgage
D. & S. F. Ry. Co.

Sixth.—And, in case of any default as aforesaid, and continuation thereof as aforesaid for sixty days thereafter, the said Trustees, their successors in said trust, and assigns, shall, upon the demand in writing of a majority in interest of the holders of said bonds as hereinafter provided, or otherwise may at their discretion, cause the said premises and property to be sold at public auction, either at the city of Boston in the Commonwealth of Massachusetts or at the city of Denver in the State of Colorado, giving notice of the time, place, and terms of said sale by publishing the same in some principal newspaper, both in said Boston and in said Denver at least once a week for three successive weeks, the last publication to be at least thirty days before the time appointed for said sale; with power to adjourn said sale from time to time at their discretion, and upon such sale to execute to the purchaser or purchasers thereat good and sufficient deeds of conveyance in fee-simple, which shall be a bar against the said Railway Company, its successors and assigns, and all persons claiming under it or them, of all right, interest or claim in or to the said premises and property, or any part thereof. In case of such sale, no purchaser other than the said Trustees shall be responsible for the application of the purchase-money. And the said Trustees shall, after deducting from the proceeds of the said sale the costs and expenses thereof and any costs and expenses they may have incurred in or about the execution of this trust, and enough to indemnify and save themselves harmless from all liabilities arising from this trust, and their reasonable compensation, apply so much of the proceeds of the said premises and property as may be necessary to the payment *pro rata* of the interest of said bonds unpaid and of the principal whether then or thereafter payable, and shall pay

Power of sale on
default.

**First Mortgage
D. & S. F. Ry. Co.**

the residue of said proceeds, if there be any, to the said Railway Company, its successors or assigns.

**Trustees may bid at
foreclosure sale.**

At any such sale, the said Trustees may in their discretion, in behalf of the holders of said First Mortgage Bonds then outstanding, bid for and purchase the premises and property so sold, at a price not exceeding the whole amount due on said First Mortgage Bonds then outstanding with interest accrued thereon, together with the proper costs and charges of the said Trustees and the expenses of the sale.

**In case of default
continued for 60 days,
Trustees on written
request of majority in
interest of bondholders
may declare principal
due.**

Seventh.—In case of default in the payment of interest of any of said bonds, which default shall continue for sixty days, then the principal of all of said bonds, upon written notice by said Trustees to said Railway Company, to be given only at the request in writing of a majority in interest of the holders of said bonds, shall become and be at once due and payable, and shall be so held and deemed for the purposes of foreclosure and sale by either of the methods herein provided, and for all other purposes whatsoever.

**Majority in interest
of bondholders may
compel Trustees to
enforce remedies in
case of default.**

Eighth.—In case of any default in the payment of the interest or principal of said bonds, and continuation thereof as aforesaid, a majority in interest of the holders of the said bonds then outstanding, by an instrument in writing signed by them, and on their furnishing to the Trustees reasonable means and indemnity for the payment of services, expenses and liabilities to be incurred and performed in so doing, may compel the said Trustees to enforce either of the remedies by foreclosure or sale above provided in case of such default.

**Power of sale may be
exercised at any time
after entry and
possession.**

Ninth.—In case of any default as aforesaid, a foreclosure by entry and taking possession as hereinbefore provided shall not be held to waive the remedy by sale as also hereinbefore provided, but said power of sale may be exercised by said Trustees, their successors in said trust or assigns, at any time while such possession under such entry continues, upon compliance with the terms above provided in regard to the manner, place and notice of such sale. The Trustees may in case of default apply to any court of competent jurisdiction for instructions as to matters not herein expressly provided for.

**Trustees may apply
for instructions.**

Tenth.—It is understood and agreed that in no case shall any claim be made under or any advantage taken of any valuation, appraisement, redemption or extension laws by said Railway Company, its successors, or assigns, to prevent such entry, sale and conveyance as aforesaid, or any foreclosure under this mortgage.

First Mortgage
D. & S. F. Ry. Co.
Ry. Co. not to take
advantage of any
stay laws.

Eleventh.—The said Railway Company, for itself and its successors and assigns doth hereby covenant and agree with the said Trustees and their successors in the trust and assigns, to pay the principal and interest of all of said First Mortgage Bonds, and all taxes, charges, rates, levies, and assessments upon the mortgaged premises and property, to keep the mortgaged property in reasonable repair and condition, and to execute and deliver any further reasonable or necessary conveyances of said premises, franchises and property, or any part thereof, whether now owned or hereafter to be acquired, to the said Trustees, their successors in said trust and assigns, which may be required for the more fully assuring and conveying said premises and property, and carrying into effect the objects and purposes of these presents, and to do at its own expense all things necessary and proper to be done, in order to make and keep valid and intact this trust and mortgage upon the aforesaid premises and property.

Covenants of Ry. Co.

Covenant of further
assurance.

Twelfth.—The compensation and all reasonable expenses of the Trustees in discharge of the trust shall be paid by the said Railway Company as they are incurred, or otherwise, out of the trust estate, on which they are hereby made a charge. It is further agreed that in no case shall the Trustees be required to act hereunder for the enforcement of the several provisions hereof until they are furnished with sufficient funds for the purpose, or are suitably indemnified. The Trustees shall not be liable for any error of judgment or mistake of law or fact made in good faith, nor for any act or thing done, suffered or neglected by their agents, attorneys or employees selected by them in good faith in the discharge of the said trusts. And no one of the said Trustees shall be in any manner answerable for the acts or omissions of either of the others.

Compensation and
expenses of Trustees.

Trustees not required
to act until furnished
with funds or
indemnified.

Limitation of liability
of Trustees.

First Mortgage
D. & S. F. Ry. Co.

the residue of said proceeds, if there be any, to the said Railway Company, its successors or assigns.

Trustees may bid at
foreclosure sale.

At any such sale, the said Trustees may in their discretion, in behalf of the holders of said First Mortgage Bonds then outstanding, bid for and purchase the premises and property so sold, at a price not exceeding the whole amount due on said First Mortgage Bonds then outstanding with interest accrued thereon, together with the proper costs and charges of the said Trustees and the expenses of the sale.

In case of default
continued for 60 days,
Trustees on written
request of majority in
interest of bondholders
may declare principal
due.

Seventh.—In case of default in the payment of interest of any of said bonds, which default shall continue for sixty days, then the principal of all of said bonds, upon written notice by said Trustees to said Railway Company, to be given only at the request in writing of a majority in interest of the holders of said bonds, shall become and be at once due and payable, and shall be so held and deemed for the purposes of foreclosure and sale by either of the methods herein provided, and for all other purposes whatsoever.

Majority in interest
of bondholders may
compel Trustees to
enforce remedies in
case of default.

Eighth.—In case of any default in the payment of the interest or principal of said bonds, and continuation thereof as aforesaid, a majority in interest of the holders of the said bonds then outstanding, by an instrument in writing signed by them, and on their furnishing to the Trustees reasonable means and indemnity for the payment of services, expenses and liabilities to be incurred and performed in so doing, may compel the said Trustees to enforce either of the remedies by foreclosure or sale above provided in case of such default.

Power of sale may be
exercised at any time
after entry and
possession.

Ninth.—In case of any default as aforesaid, a foreclosure by entry and taking possession as hereinbefore provided shall not be held to waive the remedy by sale as also hereinbefore provided, but said power of sale may be exercised by said Trustees, their successors in said trust or assigns, at any time while such possession under such entry continues, upon compliance with the terms above provided in regard to the manner, place and notice of such sale. The Trustees may in case of default apply to any court of competent jurisdiction for instructions as to matters not herein expressly provided for.

Trustees may apply
for instructions.

Tenth.— It is understood and agreed that in no case shall any claim be made under or any advantage taken of any valuation, appraisement, redemption or extension laws by said Railway Company, its successors, or assigns, to prevent such entry, sale and conveyance as aforesaid, or any foreclosure under this mortgage.

First Mortgage
D. & S. F. Ry. Co.
Ry. Co. not to take
advantage of any
stay laws.

Eleventh.— The said Railway Company, for itself and its successors and assigns doth hereby covenant and agree with the said Trustees and their successors in the trust and assigns, to pay the principal and interest of all of said First Mortgage Bonds, and all taxes, charges, rates, levies, and assessments upon the mortgaged premises and property, to keep the mortgaged property in reasonable repair and condition, and to execute and deliver any further reasonable or necessary conveyances of said premises, franchises and property, or any part thereof, whether now owned or hereafter to be acquired, to the said Trustees, their successors in said trust and assigns, which may be required for the more fully assuring and conveying said premises and property, and carrying into effect the objects and purposes of these presents, and to do at its own expense all things necessary and proper to be done, in order to make and keep valid and intact this trust and mortgage upon the aforesaid premises and property.

Covenants of Ry. Co.

Covenant of further
assurance.

Twelfth.— The compensation and all reasonable expenses of the Trustees in discharge of the trust shall be paid by the said Railway Company as they are incurred, or otherwise, out of the trust estate, on which they are hereby made a charge. It is further agreed that in no case shall the Trustees be required to act hereunder for the enforcement of the several provisions hereof until they are furnished with sufficient funds for the purpose, or are suitably indemnified. The Trustees shall not be liable for any error of judgment or mistake of law or fact made in good faith, nor for any act or thing done, suffered or neglected by their agents, attorneys or employees selected by them in good faith in the discharge of the said trusts. And no one of the said Trustees shall be in any manner answerable for the acts or omissions of either of the others.

Compensation and
expenses of Trustees.

Trustees not required
to act until furnished
with funds or
indemnified.

Limitation of liability
of Trustees.

First Mortgage
D. & S. F. Ry. Co.

Two Trustees
may act.

Execution of
instruments by the
Trustees.

Surviving or
remaining Trustees to
have full powers.

Word "Trustees" to
include successors.

Manner of resignation
of Trustee.

Majority in interest
of bondholders may
remove any Trustee.

Provision for
appointment of
new Trustees in case
of vacancies.

Thirteenth.— In all matters in which the Trustees hereunder are required to act, the decision or act of any two of them shall be the decision or act of the Trustees, the concurrence of any two of them being final. And any two of the said Trustees may execute any instruments in writing required to be executed by the Trustees, except deeds of real estate and powers of attorney appointing an agent or attorney to execute deeds of real estate in the manner hereinbefore provided, which must be signed by all the Trustees for the time being.

In case of any vacancy occurring from the death, resignation or removal of any trustee hereunder, the two surviving or remaining Trustees shall have and exercise all the powers given to the Trustees hereunder until such vacancy shall be filled as hereinafter provided.

Fourteenth.— The word "Trustees" as used in this instrument shall be construed to mean the trustees for the time being, whether original, substituted or new; and such trustees shall be vested with all the estates, powers, rights, authority and privileges hereby granted to and conferred on the said Luke, Ellison and Burdett.

Any trustee hereunder may resign and discharge himself of and from the trust hereby created, by notice in writing to the said Railway Company three months before such resignation shall take effect or such shorter time as the said Railway Company may accept as adequate notice.

A majority in interest of the holders of the bonds secured hereby then outstanding may at any time by an instrument in writing signed by them to that effect remove any trustee of this trust.

In case of the resignation, removal or death of any trustee or trustees under this Deed of Trust, a new trustee or trustees shall be appointed by the said Railway Company by an instrument in writing under its seal, and notice thereof given by an advertisement published at least once a week for three successive weeks in a daily newspaper published in said Boston, and unless a majority in interest of the holders of the said bonds then outstanding shall, within thirty days from the date of such last publication,

nake objection by an instrument in writing signed by them and delivered to the said Railway Company, the said appointment or appointments shall at the expiration of said thirty days be considered as assented to and confirmed by the holders of the bonds secured hereby.

**First Mortgage
D. & S. F. Ry. Co.**

In case such objection by a majority in interest of the holders of said bonds shall be so made as aforesaid, the said Railway Company shall thereupon apply to the Supreme Judicial Court of Massachusetts, or other court of competent jurisdiction, to appoint instead as trustee or trustees such other person or persons as to such court shall seem meet.

Upon the resignation, removal or death as aforesaid of any trustee under this Deed of Trust, all his powers and authority shall cease; but said trustee, his executors or administrators shall on demand execute a deed or deeds of conveyance, to vest in the trustee appointed in his place, and upon the trusts herein expressed all the property and rights held by him upon said trusts.

**Effect of resignation,
removal, or death of
a Trustee.**

The said ARTHUR F. LUKE, WILLIAM P. ELLISON, and GEORGE A. BURDETT hereby accept the trust conferred upon them by these presents upon the terms and conditions hereinbefore set forth.

**Acceptance of trust
by Trustees.**

IN WITNESS WHEREOF, the said The Denver and Santa Fe Railway Company has caused its corporate seal to be hereto affixed and these presents to be signed by its President and attested by its Secretary, and the said Arthur F. Luke, William P. Ellison and George A. Burdett have respectively set their hands and seals on the day and year first above written.

Attesting clause.

THE DENVER AND SANTA FE RAILWAY COMPANY.

By CHARLES C. WELCH,
[SEAL] *President.*

Attest:
CHAS. E. GAST,
Secretary.

ARTHUR F. LUKE [SEAL]
WILLIAM P. ELLISON [SEAL]
GEORGE A. BURDETT [SEAL] } *Trustees.*

First Mortgage
D. & S. F. Ry. Co.

STATE OF COLORADO, }
COUNTY OF JEFFERSON. }

Acknowledgment.

I, Wm. A. Dier, a Notary Public in and for said County in the State aforesaid do hereby certify that Charles C. Welch who is personally known to me as the person whose name is subscribed to the foregoing instrument and personally known to me to be the President of The Denver and Santa Fe Railway Company, appeared before me this day in person, and acknowledged that the foregoing instrument was signed by him and executed sealed and delivered by the said Railway Company for the uses and purposes therein set forth. Given under my hand and notarial seal, on this ninth day of May A.D. 1887.

WM. A. DIER,
Notary Public.

[SEAL]

Certificates of
recording of foregoing
instrument.
Pueblo County.

STATE OF COLORADO, }
COUNTY OF PUEBLO, } ss.

I hereby certify that this Instrument was filed for record at 10.05 o'clock A.M., May 16th 1887 and duly recorded in Book 53 page 327.

J. S. STEWART,
Recorder.

El Paso County.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

I hereby certify that this Instrument was filed for record in my office at 8 o'clock, A.M., May 16 1887 and is duly recorded in Book 68 Page 268.

E. J. EATON,
Recorder.

Douglas County.

STATE OF COLORADO, }
COUNTY OF DOUGLAS, } ss.

I hereby certify that this Instrument was filed for record in my office at 10.10 o'clock A.M., 16 May 1887, and is duly recorded in Book S, pages 71 to 82 inclusive.

HARRY JONES,
Recorder.

STATE OF COLORADO, }
COUNTY OF JEFFERSON, } ss.

First Mortgage
D. & S. F. Ry. Co.
Jefferson County.

I hereby certify that this Instrument was filed for record in my office at 8 o'clock A.M. May 17th A.D. 1887, and recorded in Book 37 on page 276.

A. C. TOWNSEND,
Recorder.

I, Charles E. Gast, Secretary of The Denver and Santa Fe Railway Company, hereby certify that an original and executed copy of the within Mortgage has been filed for record and duly recorded in the office of the County Clerk and Recorder of the following named Counties in the State of Colorado, to-wit; Pueblo, El Paso, Douglas, and Jefferson.

Certificate of
Sec. of Ry. Co.

CHAS. E. GAST,
Secretary.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Arapahoe County.

I hereby certify that this Instrument was filed for record in my office at 8½ o'clock A.M. May 16 1887 and is duly recorded in Book 337 Page 101.

CHAS. H. SCOTT,
Recorder.

CHANGE IN TRUSTEES.

George A. Burdett resigned as one of the trustees under the foregoing mortgage and his resignation was accepted by the Directors of The Denver and Santa Fe Railway Company on January 31st 1890, and Frank E. Peabody of Boston was elected in his stead.

Resignation of
Geo. A. Burdett.

Election of
Frank E. Peabody.

The present Trustees are ARTHUR F. LUKE, WILLIAM P. ELLISON and FRANK E. PEABODY.

Present Trustees.

TRANSFER

BY

GEORGE A. BURDETT

TO

FRANK E. PEABODY

OF ALL THE PROPERTY AND RIGHTS HELD BY HIM AS TRUSTEE
UNDER THE FOREGOING MORTGAGE.

Aug. 27, 1890.

THIS INSTRUMENT made in duplicate this 27th day
of August A.D. 1890,
WITNESSETH That,

Recital as to making
of mortgage by
Ry. Co. to Luke,
Ellison and Burdett,
Trustees.

WHEREAS: On May 4th, 1887, The Denver & Santa Fe
Railway Company, a corporation organized and existing
under the laws of the State of Colorado, executed its first
mortgage, and conveyed its property in trust to Arthur F.
Luke of Newton in the County of Middlesex, William P.
Ellison of said Newton, and George A. Burdett, of Brook-
line, in the county of Norfolk, all in the Commonwealth
of Massachusetts:

Resignation of Geo. A.
Burdett as Trustee
and appointment of
Frank E. Peabody as
his successor.

AND WHEREAS: On January 31st 1890 the resignation of
said George A. Burdett as such trustee was accepted by
said railway company, and Frank E. Peabody of Boston,
in Suffolk County, Commonwealth of Massachusetts, was
duly appointed by said railway company as trustee under
said mortgage to succeed and take the place of said George
A. Burdett, as trustee:

Request of Ry. Co. to
Burdett to execute
deed of conveyance
to Peabody, Trustee.

AND WHEREAS: Pursuant to the fourteenth section of
said mortgage, said railway company has requested said
George A. Burdett to execute a deed of conveyance to
said Frank E. Peabody as trustee, vesting in said Peabody
all the property and rights which were held by said George
A. Burdett by virtue of, and upon the trusts expressed in
said mortgage:

NOW THEREFORE, said George A. Burdett for a good and sufficient consideration duly received, remises, releases and quit-claims to said Frank E. Peabody, as such trustee, all the property and rights held by said George A. Burdett as trustee, upon the trusts expressed in said mortgage.

Release by Burdett
to Peabody of all
property and rights
held as such Trustee.

By relation this deed takes effect on, and from January 21st, 1890, the date of the appointment of said Frank E. Peabody, as such trustee.

Deed to take effect
from Jan. 21, 1890.

IN WITNESS WHEREOF, said George A. Burdett has executed and sealed this instrument this 27th day of August A.D. 1890.

Attesting clause.

GEORGE A. BURDETT. [SEAL]

COMMONWEALTH OF MASSACHUSETTS, }
COUNTY OF SUFFOLK, } ss.

I, Geo. L. Goodwin a Notary Public in and for said County and Commonwealth, do hereby certify that George A. Burdett, who is personally known to me as the person whose name is subscribed to the foregoing instrument, and personally known to me to have been appointed as trustee under the first mortgage of The Denver & Santa Fe Railway Company referred to in the foregoing instrument, appeared before me this day in person and acknowledged that the said instrument was signed, sealed and delivered by him for the uses and purposes therein set forth.

Acknowledgment.

Given under my hand and notarial seal this 27th day of August 1890.

GEO. L. GOODWIN.

[SEAL]

My commission expires

DESIGNATION OF LANDS FOR SALE
BY
TRUSTEES UNDER THE FIRST MORTGAGE
OF
THE DENVER AND SANTA FE RAILWAY
COMPANY

UPON THE REQUEST OF THE SAID RAILWAY COMPANY.

KNOW ALL MEN BY THESE PRESENTS:

Recital as to making
of mortgage by
D. & S. F. Ry. Co.

THAT WHEREAS The Denver and Santa Fe Railway Company, a corporation established under the laws of the State of Colorado, made on the fourth day of May A.D. 1887 a First Mortgage of all its corporate property and franchises to Arthur F. Luke, William P. Ellison and George A. Burdett as Trustees, to secure the First Mortgage six per cent. gold bonds of the said Railroad Company limited to twenty five thousand dollars per mile of railroad:

Recital of provision
of mortgage for
designation of lands
for sale by the
Trustees.

AND WHEREAS it is in the said Mortgage among other things provided that:

"The Trustees shall have full power, in their discretion, upon the request of the said Railroad Company, to convey by way of release or otherwise to the persons designated by the said Railway Company any lands or real estate which, in their judgment and that of the said Railway Company, it has become expedient to sell or dispose of for the purposes of the road; provided that the proceeds of all such sales of real estate shall be applied to the construction, improvement or equipment of the railroads and permanent property of the said Railway Company. For the purpose of making such sales of real estate, the Trustees upon the request of the said Railway Company may designate such portions of the real estate of the said Railway Company as they deem it expedient, in the interests of the said Railway Company and of the holders of the bonds secured hereby, to sell and dispose of for the purpose of applying

the proceeds thereof as aforesaid. The Trustees may by a power of attorney under their hands and seals appoint an agent or attorney to execute and acknowledge in their names and behalf as such Trustees, upon the request of the said Railway Company, all conveyances, deeds and releases required for conveying or releasing to any purchaser from the said Railway Company any part, lot or parcel of such portions of the real estate of the said Railway Company as shall have been designated for sale as aforesaid by the Trustees."

Designation of lands
for sale by Trustees
under mortgage of
D. & S. F. Ry. Co.

NOW THEREFORE the said Railway Company doth hereby request the said Trustees to designate all the lands and real estate which formerly belonged to The Denver Circle Real Estate Company and which now belong to the said Railway Company as being portions of the real estate of the said Railway Company which it is expedient, in the interests of the said Railway Company and of the holders of the said bonds secured by the said Mortgage, to sell and dispose of for the purposes aforesaid, the said lands and real estate being situated and described as follows, to wit:

Request of Ry. Co. to
Trustees to designate
certain lands for sale.

Lots 7, 8, 9, and fractional lots 5 and 6 in block 243, the easterly 92 feet of lots 5 and 6 in block 245, lots 1, 2, and 3 in block 12, all in the West Division of the City of Denver; lots 20, 21, 22 and 23 in block 14, lots 1 to 25, both inclusive, in block 17, lots 1 to 4, both inclusive, and 9 to 12, both inclusive, in block 25, lots 1 to 9, both inclusive, in block 31, all in Witter's First Addition to Denver; lot 9 in block 8 in Fairmount and lots 4 to 8 both inclusive, in block 10 in Fairmount; lots 33 to 40, both inclusive, in Halleck's Subdivision of block 28 of Witter's First Addition to Denver, except a strip off the rear or west end of said lots described as follows,—beginning at a point on the north line of lot 40 said block 28 116.75 feet west of the north east corner of said block, thence west along the north line of said lot 40 9.25 feet to the east line of the alley in said block, thence south along east line of said alley 200 feet to the south west corner of lot 33, said block 28, thence east on south line of said lot 33 9.65 feet to a point, thence north in a direct line to

Description of lands
covered by said
request.

Designation of lands
for sale by Trustees
under mortgage of
D. & S. F. Ry. Co.

place of beginning, said last mentioned line being parallel to and 10 feet east from the rear walls of certain outbuildings belonging to Worthington Block on Santa Fe Avenue. Lots 10 to 20, both inclusive, in block 2 and lots 1 to 20, both inclusive, in block 12 in Smith's Addition, lots 28 and 29 in block 7, lots 14 and 15 in block 8, lots 21 and 22 in block 12, lots 3 and 4 in block 13, and lots 1 to 7, both inclusive, and 12 to 18 both inclusive, in block 19 in Lake Archer Addition to Denver; lots 23 and 24 in block 1 in Pierce and Hinman's Addition, and lots 9 to 11, both inclusive, and 21 to 40, both inclusive, in block 1 and lots 1 to 20 in block 2 in Bayaud's Addition; lots 5 to 8, both inclusive, and 10 to 41 both inclusive in block 41, lots 7 to 40 in block 42, lots 19 to 38, both inclusive, in block 43, lots 17 to 24, both inclusive, in block 45, all in Bayer's Subdivision; lots 11 to 39, both inclusive, in block 52, lots 5 to 21 both inclusive, and 30 to 48 both inclusive, in block 53, lots 1 to 16 both inclusive, and 35 to 48 both inclusive, in block 54, lots 1 to 10 both inclusive, and 41 to 48 both inclusive, in block 55, lots 1 to 5 and 46 to 48 both inclusive, in block 56, and fractional blocks 61 and 62, all in the First Addition to Byer's Subdivision; lots 6 to 38 and 43 to 46 in block 1, lots 1 to 46 in block 2, 1 to 46 in block 3 and lots 1 to 46 in block 4 in First Addition to Lincoln Subdivision; lots 1 to 38 in block 1, lots 5 to 38 in block 2, lots 1 to 38 in block 3, lots 8, 13 to 15 and 18 to 38 in block 4, lots 5 to 44 in block 5, lots 3 to 44 in block 6, lots 1 to 44 in block 7, lots 1 to 44 in block 8, lots 1 to 44 in block 9, lots 1 to 44 in block 10, lots 1 to 44 in block 11, lots 1 to 38 and 43 and 44 in block 12, lots 1 to 48 in block 13, lots 1 to 48 in block 14, lots 1 to 48 in block 15, lots 1 to 48 in block 16, lots 1 to 11 and 36 to 46 in block 17 and lots 1 to 11 and 36 to 46 in block 18, all in Lincoln Subdivision; lots 1 to 24 and 29 to 48 in block 1, lots 1 to 48 in block 2, lots 1 to 48 in block 3, lots 1 to 48 in block 4, lots 1 to 48 in block 5, lots 1 to 48 in block 6, lots 1 to 48 in block 7, lots 1 and 2 and 4 to 48 in block 8, lots 1 to 12 and 24 to 48 in block 9, lots 1 to 46 in block 10, lots 1 to

46 in block 11, lots 1 to 46 in block 12, lots 1 to 46 in block 13, lots 1 to 46 in block 14, lots 1 to 46 in block 15, and lots 1 to 46 in block 16, all in Sherman Sub-division.

Designation of lands
for sale by Trustees
under mortgage of
D. & S. F. Ry. Co.

(All the lot numbers expressed in the foregoing description are included whether the words "both inclusive" are expressed in each instance or not.)

Also the south half of the north half of the south east quarter of Section 22, the north east quarter of the north east quarter and the east half of the northwest quarter of the north east quarter of Section 27; also the following, commencing at the intersection of the north line of the S. E. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of Sec. 9, Town 4 south of Range 68 west of the 6th principal meridian, with the west line of the right of way of The Denver and Rio Grande Railroad Company, which point of intersection is 40 feet, more or less, west of the north east corner of said quarter section, thence west on said north line 700 feet, more or less, to the east line of the right of way of The Denver Texas and Gulf Railroad, thence southeasterly on said last named right of way line 50 feet, more or less, to a point 30 feet due south of said north line, thence east parallel with and 30 feet distant from said north line 690 feet, more or less, to said west line of the right of way of The Denver and Rio Grande Railroad, thence northwesterly along said last named right of way line 40 feet, more or less to the place of beginning, except the right of way across said tract in accordance with deed from John P. Heister to parties owning land adjoining same on the south. Also, Beginning at a point 998 feet west of the south east corner of the N.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of Section 10, Town. 4 South of Range 68 west, thence north 328 feet, thence west 317 feet, thence south 328 feet, thence east 317 feet to the place of beginning, containing $2\frac{1}{2}$ acres, more or less, and being a part of the S. $\frac{1}{2}$ of the N.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of Section 10, Town. 4 south, of Range 68 west. Also the E. $\frac{1}{2}$ of the N.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of the S.E. $\frac{1}{4}$ of Section 10, said Township and Range, save and except a strip of land 20 feet in width along the south side thereof set apart for public use, also a

Designation of lands
for sale by Trustees
under mortgage of
D. & S. F. Ry. Co.

strip 110 feet and 3 inches in width off the west side of said tract; Also the E. $\frac{1}{2}$ of the S.E. $\frac{1}{4}$ of Section 21 and the W. $\frac{1}{2}$ of the S.W. $\frac{1}{4}$ of Section 22 in the Township and range aforesaid; Also the following, viz: Commencing at the north east corner of the S.W. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of Section 10, in said township and range, thence west 1190 feet to the east line of the Denver and Rio Grande Railroad Company's right of way, thence southeasterly along said east line of said right of way 963. 8-10 feet, thence northeasterly on the line dividing the Bayaud tract from the First Addition to Byer's Subdivision 140 feet to a point thence north 231. 7-10 feet to a point, thence east 132. 8-10 feet to a point, thence north 500 feet to a point, thence east 546. 7-10 feet to a point on the east line of the said S.W. $\frac{1}{4}$ of said S.W., $\frac{1}{4}$ thence north on said east line 106. 5-10 feet to the place of beginning, subject to such public highways, alleys and ditch rights as may exist. Also a tax title to 30 acres in the S.W. $\frac{1}{4}$ of the N.W. $\frac{1}{4}$ of Sec. 3 in said township and range by virtue of a certain tax deed to Archie C. Fisk dated June 24, 1880 and recorded June 28, 1880 and from Fisk by various mesne conveyances to The Denver and Santa Fe Railway Company, all the foregoing being in Township 4 south of Range 68 west.

Attesting clause
by Ry Co.

IN WITNESS WHEREOF the said Railway Company has caused its corporate seal to be hereto affixed and these presents to be signed by its President and attested by its Secretary on this fourteenth day of May A.D. 1887.

THE DENVER AND SANTA FE RAILWAY COMPANY,
By CHARLES C. WELCH,
[SEAL] *President.*
Attest:
CHAS. E. GAST,
Secretary.

Designation of said
lands for sale by the
Trustees.

We, Arthur F. Luke, William P. Ellison and George A. Burdett, being the Trustees under the First Mortgage of The Denver and Santa Fe Railway Company dated May

4th, 1887, the foregoing request of the said Railway Company having been duly presented to and considered by us, DO HEREBY DESIGNATE all the lands and real estate which formerly belonged to the Denver Circle Real Estate Company and which now belong to the said Railway Company, as described in the foregoing request or however otherwise described, as being portions of the real estate of the said Railway Company which we deem it expedient, in the interests of the said Railway Company and of the holders of the bonds secured by the said Mortgage, to sell and dispose of for the purpose of applying the proceeds thereof to the construction, improvement or equipment of the railroads and permanent property of the said Railway Company;

Designation of lands
for sale by Trustees
under mortgage of
D. & S. F. Ry. Co.

IN WITNESS WHEREOF we hereunto set our hands and seals on this fourteenth day of May A.D. one thousand eight hundred and eighty seven.

Attesting clause
by Trustees.

ARTHUR F. LUKE [SEAL] } Trustees under 1st
WILLIAM P. ELLISON [SEAL] } Mortg. of Denver &
GEORGE A. BURDETT [SEAL] } Santa Fe Ry Co.

STATE OF COLORADO, }
COUNTY OF JEFFERSON, } ss.

Acknowledgment
by Ry. Co.

I, Wm. A. Dier, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Charles C. Welch, President of The Denver & Santa Fe Railway Company personally known to me as the person whose name is subscribed to the annexed deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act for the uses and purposes therein set forth, and as the free and voluntary act of the said Railway Company for the uses and purposes therein set forth.

Given under my hand and notarial seal this 13th day of July in the year of our Lord one thousand eight hundred and eighty-seven.

[SEAL]

WM. A. DIER,
Notary Public.

Designation of lands
for sale by Trustees
under mortgage of
D. & S. F. Ry. Co.

Acknowledgments
by Trustees.

COMMONWEALTH OF MASSACHUSETTS, } ss.
SUFFOLK,

Personally appeared before me on this eighteenth day of June 1887 the above named Arthur F. Luke and William P. Ellison whose names are subscribed to the foregoing instrument and severally acknowledged that they executed the said instrument as Trustees under the First Mortgage of The Denver and Santa Fe Railway Company freely and voluntarily for the purposes therein set forth.

WITNESS my hand and seal notarial on this eighteenth day of June A.D. 1887.

HENRY W. SWIFT,
Notary Public.

[SEAL]

Subsequently, to wit, on this twenty-seventh day of June A.D. 1887 before me personally appeared the above named George A. Burdett and acknowledged that he executed the foregoing instrument as Trustee under the said Mortgage freely and voluntarily for the purposes in said instrument set forth.

WITNESS my hand and seal notarial of this 27th day of June A.D. 1887.

HENRY W. SWIFT,
Notary Public.

[SEAL]

COMMONWEALTH OF MASSACHUSETTS, } ss.
COUNTY OF SUFFOLK,

I, Henry W. Swift, a Notary Public in and for said County, in the Commonwealth aforesaid, do hereby certify that on the eighteenth day of June A.D. 1887 Arthur F. Luke and William P. Ellison and on the twenty-seventh day of June A.D. 1887 George A. Burdett, each of whom is personally known to me and who are personally known to me to be the same persons who executed the within deed, appeared before me in person, and severally acknowledged that they signed sealed and delivered the said instrument of writing as their free and voluntary act and for the uses and purposes therein set forth.

Given under my hand and notarial seal this sixth day of
July A.D. 1887.

Designation of lands
for sale by Trustees
under mortgage of
D. & S. F. Ry. Co.

HENRY W. SWIFT,

[SEAL]

Notary Public.

COMMONWEALTH OF MASSACHUSETTS, }
SUFFOLK, SS. CLERK'S OFFICE OF }
SUPERIOR COURT.

Certificate of Clerk
of Court as to
qualification of
Notary.

I, Jos. A. Willard of Boston, in said County, duly elected, qualified and sworn as clerk of the Superior Court, for and within said County and Commonwealth, dwelling in Boston, in said County, said Court being a Court of record with a seal which is hereto affixed, the records and seal of which Court I have the custody, do herein and hereby, in the performance of my duty as said Clerk, certify and attest that Henry W. Swift, Esq., before whom the annexed affidavit, proof or acknowledgment was taken, is a Notary Public for and within said County, duly appointed, commissioned, qualified, sworn and authorized by the laws of said Commonwealth to act as such; and also duly authorized by the laws of said Commonwealth to take affidavits and certify proofs and acknowledgments of deeds of conveyances for lands, tenements and hereditaments, lying and being in said Commonwealth; that he was at the time of taking the affidavit, proof, or acknowledgment, hereto annexed, such Notary Public, that due faith and credit are and ought to be given to his official acts; that I am well acquainted with his signature and handwriting, and I verily believe that the signature to the said affidavit, proof or acknowledgment is genuine, and further, that the annexed instrument is executed and acknowledged according to the laws of said Commonwealth.

WITNESS my hand, and the seal of said Court, at Boston, in said County and Commonwealth, this sixth day of July A.D. 1887.

JOS. A. WILLARD,

[SEAL OF THE COURT]

Clerk.

APPLICATION OF PROCEEDS

OF SALES OF LANDS DESIGNATED FOR SALE BY THE FOREGOING
INSTRUMENT.

D. & S. F. Ry. Co.
Directors' Meeting
July 26, 1889.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE DENVER AND SANTA FE RAILWAY COMPANY, HELD AT DENVER, COLORADO, ON JULY 26TH, 1889.

Preamble and
resolution passed.

Upon motion of Mr. Bishop, seconded by Mr. Feldhauser, the following preamble and resolution was unanimously adopted:

Recital of designation
of lands for sale by
Trustees under
mortgage.

WHEREAS by an instrument dated the 14th day of May 1887, the Trustees, under this Company's First Mortgage, at this Company's request, designated for sale all of this Company's lands and real estate which formerly belonged to the Denver Circle Real Estate Company. Provided that the proceeds of such sale as required by the said Mortgage, should be applied to the construction, improvement or equipment of the railways and permanent property of this Company, and

Provision for
application of
proceeds.

Proceeds in hands of
land agent.

WHEREAS there is now in the hands of the Land Agent of this Company the sum of \$361,659.33, received from the proceeds of such sales and other sums arising from further sales of the said land may hereafter come to his hands,

Now it is

Voted to pay proceeds
to Treasurer of
Atchison Co. to be
applied towards
payment of
indebtedness to that
Co. incurred for
construction.

VOTED, that the said sum of \$361,659.33, be paid to the Treasurer of the Atchison, Topeka and Santa Fe Railway, to be by him applied towards the payment of indebtedness incurred for the construction of this Company's road, and that any sums hereafter received from the proceeds of said lands so designated for sale, shall be from time to time upon demand, likewise paid over to the said Treasurer for the said purpose.

POWERS OF ATTORNEY

FROM TRUSTEES UNDER MORTGAGE OF

THE DENVER AND SANTA FE RAILWAY COMPANY

FOR EXECUTION OF DEEDS OF LANDS DESIGNATED FOR
SALE AS AFORESAID.

On May 16th, 1887, Arthur F. Luke, William P. Ellison and George A. Burdett, Trustees under the First Mortgage of The Denver and Santa Fe Railway Company, executed a Power of Attorney to A. S. Johnson of Topeka, Kansas, giving him authority to execute for them upon request of the said Railway Company, deeds of the lands designated for sale.

Recital as to power of attorney to A. S. Johnson from Luke, Ellison and Burdett, Trustees.

After the resignation of Mr. Burdett as Trustee under the said mortgage and the appointment of Frank E. Peabody in his place, Mr. Peabody executed on April 21, 1890 a Power of Attorney giving A. S. Johnson authority to execute such deeds for him as well as for the other Trustees.

Resignation of Burdett, appointment of Peabody and execution by him of power of attorney to Johnson.

Mr. Johnson subsequently resigned his position as Land Commissioner and Mr. John E. Frost was appointed in his place, and on May 21st, 1890 a new Power of Attorney was executed by Luke, Ellison and Peabody, Trustees, to Mr. Frost, and the previous Powers of Attorney to Mr. Johnson were revoked.

Resignation of Johnson as land agent and appointment of John E. Frost in his place.

New power of attorney.

The following is the Power of Attorney to Mr. Frost, which is now in force:

POWER OF ATTORNEY

FROM THE TRUSTEES UNDER FIRST MORTGAGE OF

THE DENVER AND SANTA FE RAILWAY COMPANY

TO

JOHN E. FROST

GIVING HIM AUTHORITY TO EXECUTE DEEDS OF LANDS
DESIGNATED FOR SALE.

KNOW ALL MEN BY THESE PRESENTS:

Recital as to making
of mortgage.

THAT WHEREAS, on May 4th, 1887, The Denver and Santa Fe Railway Company, a corporation organized under the laws of the State of Colorado, executed its First Mortgage and conveyed its property in trust to Arthur F. Luke, of Newton in the County of Middlesex, William P. Ellison of said Newton, and George A. Burdett of Brookline, in the County of Norfolk, all in the Commonwealth of Massachusetts,

Provision of mortgage
as to designation of
lands for sale by
Trustees.

AND WHEREAS, under said Mortgage it was provided, that:

The Trustees shall have full power, in their discretion, upon the request of the said Railway Company, to convey by way of release or otherwise to the persons designated by the said Railway Company any lands or real estate which, in their judgment and that of the said Railway Company, it has become expedient to sell or dispose of for the purposes of the road; *provided* that the proceeds of all such sales of real estate shall be applied to the construction, improvement or equipment of the railroads and permanent property of the said Railway Company. For the purpose of making such sales of real estate, the Trustees upon the request of the said Railway Company may designate such portions of the real estate of the said Railway Company as they deem it expedient, in the interests of the said Railway

Company and of the holders of the bonds secured hereby, to sell and dispose of for the purpose of applying the proceeds thereof as aforesaid. The Trustees may by a power of attorney under their hands and seals appoint an agent or attorney to execute and acknowledge in their names and behalf as such trustees, upon the request of the said Railway Company, all conveyances deeds and releases required for conveying or releasing to any purchaser from the said Railway Company any part, lot or parcel of such portions of the real estate of the said Railway Company as shall have been designated for sale as aforesaid by the Trustees.

Power of attorney
from Trustees under
D. & S. F. Mortgage
to John E. Frost.

AND WHEREAS, by an instrument executed on the 16th [14th] day of May, 1887, said Trustees, Messrs. Luke, Ellison and Burdett, designated all the lands and real estate which formerly belonged to The Denver Circle Real Estate Company, and which then belonged to the said Railway Company, as being portions of the real estate of the said Railway Company, which said Trustees deemed it expedient, in the interests of said Railway Company, and of the holders of the bonds secured by the said Mortgage, to sell and dispose of for the purposes aforesaid, the said lands and real estate so designated for sale, being situated and described, as follows, to wit:

Recital as to
designation of lands
for sale by the
Trustees.

[Here follows the description of the lands designated for sale already printed on pages 493-496.]

AND WHEREAS portions of said described lots and parcels of land and real estate have been sold and conveyed by said Railway Company and releases of the said Mortgage and conveyances of title of the said Trustees, have been executed through A. S. Johnson, of Topeka, Shawnee County, Kansas, as their attorney in fact, but as to the remaining portions of said lots and parcels of land, said Mortgage has not been released and there have been no conveyances of title of said Trustees,

Some conveyances
and releases executed
and some not.

AND WHEREAS on January 31st, 1890, Frank E. Peabody of Boston, in Suffolk County, Commonwealth of Massachusetts, was duly appointed by said Railway Company as Trustee under said Mortgage to succeed and take the place of said George A. Burdett, as Trustee,

Appointment of
Peabody Trustee in
place of Burdett.

Power of attorney
from Trustees under
D. & S. F. Mortgage
to John E. Frost.

AND WHEREAS said Railway Company desires from time to time to sell, dispose of and convey the portions of said hereinbefore described lots and parcels of land not already sold, disposed of or conveyed by it, and to have said Mortgage released and the title of the present Trustees, Messrs. Luke, Ellison and Peabody, conveyed to the purchasers of said lots or parcels of land,

Luke, Ellison and
Peabody, Trustees,
constitute Frost their
attorney to release
lands sold.

NOW THEREFORE, in order to facilitate the execution of conveyances of the title of the present Trustees and the releases of said Mortgage, we, Arthur F. Luke, William P. Ellison and Frank E. Peabody the present Trustees under said Mortgage, do hereby constitute and appoint Jno. E. Frost of Topeka, Shawnee County, Kansas, our true and lawful attorney, for us and in our names as such Trustees, to execute and acknowledge, upon the request of the said Railway Company all conveyances, deeds and releases required for conveying and releasing to any purchaser from the said Railway Company, any part, lot or parcel of the said lands and real estate of said Railway Company hereinbefore described and which formerly belonged to The Denver Circle Real Estate Company.

Former powers of
attorney revoked.

The power of attorney executed on the 16th day of May, 1887, by Messrs. Arthur F. Luke, William P. Ellison and George A. Burdett, the then Trustees under said Mortgage, and the power of attorney executed on the 21st day of April, 1890, by Frank E. Peabody, a Trustee under said Mortgage, appointing A. S. Johnson of Topeka, Shawnee County, Kansas, as an attorney to execute releases of said Mortgage, shall cease, determine, and be revoked on and after June 1st, 1890.

Attesting clause.

IN WITNESS WHEREOF we have hereunto set our hands and seals this 21st day of May 1890.

ARTHUR F. LUKE [SEAL]

WILLIAM P. ELLISON [SEAL]

FRANK E. PEABODY [SEAL]

*Trustees under the First Mortgage of the Denver and
Santa Fe Railway Company.*

COMMONWEALTH OF MASSACHUSETTS, } ss.
COUNTY OF SUFFOLK,

Power of attorney
from Trustees under
D. & S. F. Mortgage
to John E. Frost.

I, Geo. L. Goodwin, a Notary Public in and for said County and Commonwealth, do hereby certify that Arthur F. Luke, who is personally known to me as one of the persons whose name is subscribed to the foregoing instrument, and personally known to me to be a Trustee under the First Mortgage of The Denver and Santa Fe Railway Company, referred to in the foregoing instrument, appeared before me this day in person and acknowledged that the said instrument was signed, sealed and delivered by him for the uses and purposes therein set forth.

Acknowledgment of
Luke, Trustee.

Given under my hand and notarial seal this 21st day of May, 1890.

GEO. L. GOODWIN,

[NOTARIAL SEAL]

Notary Public.

My commission expires April 14, 1893.

COMMONWEALTH OF MASSACHUSETTS, } ss.
COUNTY OF SUFFOLK,

Acknowledgment of
Ellison, Trustee.

I, Geo. L. Goodwin, a Notary Public in and for said County and Commonwealth, do hereby certify that Wm. P. Ellison who is personally known to me as one of the persons whose name is subscribed to the foregoing instrument, and personally known to me to be a Trustee under the First Mortgage of The Denver and Santa Fe Railway Company, referred to in the foregoing instrument, appeared before me this day in person and acknowledged that the said instrument was signed, sealed and delivered by him for the uses and purposes therein set forth.

Given under my hand and notarial seal this 21st day of May, 1890.

GEO. L. GOODWIN,

[NOTARIAL SEAL]

Notary Public.

My commission expires April 14, 1893.

Power of attorney
from Trustees under
D. & S. F. Mortgage
to John E. Frost.

Acknowledgment of
Peabody Trustee.

COMMONWEALTH OF MASSACHUSETTS, { ss.
COUNTY OF SUFFOLK,

I, George E. Perrin, a Notary Public in and for said County and Commonwealth, do hereby certify that Frank E. Peabody, who is personally known to me as one of the persons whose name is subscribed to the foregoing instrument, and personally known to me to be a Trustee under the First Mortgage of The Denver and Santa Fe Railway Company, referred to in the foregoing instrument, appeared before me this day in person and acknowledged that the said instrument was signed, sealed and delivered by him for the uses and purposes therein set forth.

Given under my hand and notarial seal this twenty-seventh day of May, 1890.

GEO. E. PERRIN,
Notary Public.

[NOTARIAL SEAL]

My commission expires January 13, 1894.

STATEMENT

RELATING TO PROPERTY OF

THE DENVER AND SANTA FE RY. CO.

ACQUIRED FROM

DENVER CIRCLE REAL ESTATE CO.

AS SHOWN BY BOOKS OF LAND DEPARTMENT JULY 1, 1892.

July 1, 1892.

No. of acres acquired from D. C. R. E. Co.	676.72
No. of acres sold or platted in lots	<u>260.00</u>
Remaining of acreage property	416.72
No. of platted lots acquired from D. C. R. E. Co.	2,065.
No. of lots platted by Land Dept. (100 acres)	<u>960.</u>
	3,025.
No. of Lots unsold held for Opt'g. purposes	359.
Gross receipts to June 30, 1892	\$627,549.98
Expenses and Taxes	<u>35,343.20</u>
Net proceeds	\$592,206.78

A conservative valuation of the unsold land and lots of the Denver and Santa Fe Railway Company on the books of the Land Department on the said date is \$200,000. Estimate of the value of unsold lands.

ACQUISITION

BY THE

ATCHISON COMPANY

OF THE STOCK AND BONDS OF

THE DENVER AND SANTA FE RAILWAY CO.

Atchison Co.
Directors' Meeting
April 5, 1887.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE ATCHISON COMPANY, HELD AT BOSTON ON APRIL 5, 1887.

On motion of Col. Holliday,

President directed to procure D. & S. F. to construct its road from Pueblo via Denver to Golden.

VOTED that the President is hereby authorized and directed to cause and procure the Denver and Santa Fe Railway Company to construct and complete its road from a connection with The Pueblo and Arkansas Valley Railroad Company at Pueblo, Colorado, via Denver to the City of Golden in Jefferson county in the State of Colorado, as speedily as the same can be done with a due regard to economy.

On motion of Mr. Burr,

Vote to advance to D. & S. F. money required for such construction and for purchase of properties of D. C. R. R. Co. & D. C. R. E. Co., such advances to be repaid in first mortgage bonds.

VOTED that this Company shall advance to the said Denver and Santa Fe Railway Company such sums of money as may be from time to time required for the construction of its road, and for the purchase by the said Denver and Santa Fe Railway Company, at foreclosure sale or otherwise, of the railroads, property and franchises of the Denver Circle Railroad Company and the Denver Circle Real Estate Company, receiving in payment the capital stock of the said Denver and Santa Fe Railway Company from time to time issued (except so much as may be necessary to qualify directors) and its First Mortgage six per cent. gold bonds limited to twenty five thousand dollars per mile of railroad.

RECORD OF A SPECIAL MEETING OF THE STOCKHOLDERS OF
THE DENVER AND SANTA FE RAILWAY COMPANY, HELD
AT THE OFFICE OF THE COMPANY IN DENVER, COLO-
RADO, ON MAY 4TH, 1887.

D. & S. F. Ry. Co.
Stockholders'
Meeting May 4, 1887.

The Secretary submitted due proofs that the meeting had been properly noticed according to the by-laws of the Company, and upon a call of the Stockholders present it was found that there were represented at the meeting in person 34,999 shares, the same being the entire capital stock of the Company as authorized and subscribed with the exception of one share.

Proofs of notice of
meeting.

Entire capital stock
represented.

The President C. C. Welch occupied the Chair.

The following preamble and resolution was offered by Chas. E. Gast;—

Preamble and
resolution.

WHEREAS this Company desires to complete its road from a connection with the road of The Pueblo and Arkansas Valley Railroad Company at Pueblo, Colorado, by way of Denver to the City of Golden in Jefferson County, in the State of Colorado, as speedily as the same can be done, with due regard to economy, and for the purposes of its said road to purchase at foreclosure sale, or otherwise, the railroads, property and franchises of The Denver Circle Railroad Company and The Denver Circle Real Estate Company, and for these purposes and for furnishing, improving and operating its said road, and to provide for the payment of debts contracted for the purposes aforesaid, has resolved to borrow such sums of money as may be necessary and to issue and dispose of its First Mortgage Six per cent. Gold Bonds, dated June 1st, 1887, and payable June 1st 1936, limited to \$25,000 per mile of railroad for any amount so borrowed, and to mortgage its corporate property and franchises to secure the said bonds,

Proposed construction
of road and proposed
purchase of properties
of D. C. R. R. Co. and
D. C. R. E. Co.

Proposed issue of
first mortgage bonds.

NOW THEREFORE, It is voted that the said mortgage shall be in the following form, being an indenture between this Company and Arthur F. Luke, William P. Ellison and George A. Burdett, Trustees thereunder, dated May 4th, 1887, and the President is hereby directed to

Vote authorising
first mortgage.

D & S. F. Ry. Co.
Stockholders'
Meeting.

execute the said indenture in the name and on behalf of the Company, and the Secretary to attest the same:

[Here follows in the record a copy of the First Mortgage of The Denver and Santa Fe Railway Company.]

Stock vote on
foregoing preamble
and resolution.

The preamble and resolution aforesaid having been duly seconded, a stock vote was taken upon the passage of the same resulting in 34,999 shares having been voted in the affirmative and none in the negative, whereupon the same was declared unanimously adopted.

The following was offered by T. C. Henry and duly seconded:—

Authorization of
execution of bonds
to be issued under
first mortgage.

VOTED that the First Mortgage Bonds of this Company, to be issued under the said mortgage this day approved, shall be in the form described in the said mortgage, and the Comptroller is hereby authorized to execute the said bonds in the name and on behalf of the Company, and the Assistant Treasurer to attest the same, from time to time as the same shall be authorized to be issued either by a majority of the Stockholders or by the Board of Directors of this Company.

Stock vote on
foregoing resolution.

A stock vote was taken upon the foregoing resulting in 34,999 shares voting in the affirmative and none in the negative, whereupon the same was declared by the Chair unanimously adopted.

Mr. E. T. Alling offered the following preamble and resolutions:—

Subscription of
Atchison Co. through
Charles E. Gast,
Trustee, for capital
stock of D. & S. F.

WHEREAS the Atchison, Topeka and Santa Fe Railroad Company through Charles E. Gast, Trustee, has subscribed for 34,993 shares of the capital stock of this Company, the same being the entire capital stock as authorized by its certificate of incorporation except seven shares subscribed for by the seven directors, each having subscribed for one share, and

Agreement of
Atchison Co. to
advance money for
construction and
purchase of Denver
circle properties.

WHEREAS the said Atchison, Topeka and Santa Fe Railroad Company has agreed to advance to this Company such sums of money as may be from time to time required for the construction, furnishing and improvement of its road, and for the purchase by this Company at foreclosure sale,

or otherwise, of the railroads, property and franchises of The Denver Circle Railroad Company and The Denver Circle Real Estate Company, provided it receives in payment therefor 14,993 shares of the full paid capital stock of this Company, and first mortgage six per cent. gold bonds to the extent of twenty five thousand dollars per mile of railroad, and limited under the mortgage accordingly to such amount.

NOW THEREFORE, it is voted that this Company will issue and dispose of its bonds and stock to the said Atchison, Topeka and Santa Fe Railroad Company now, and from time to time as the same may be required, 14,993 full paid shares of the capital stock of this Company, and all of this Company's first mortgage bonds to the extent of twenty five thousand dollars per mile of railroad.

And Charles E. Gast, Trustee, and the Atchison, Topeka and Santa Fe Railroad company having consented thereto.

It is further voted that the subscription of the said Charles E. Gast, Trustee, be changed and limited to 14,993 shares instead of 34,993 shares, so that the entire issue of the capital stock of this Company may for the present be 15,000 shares or \$1,500,000 and the remainder of the capital stock as authorized, to wit: 20,000 shares or \$2,000,000 be held and kept in the treasury and not open for subscription until the future needs of the Company so demand, to be determined by the stockholders.

A stock vote was taken upon the adoption of the foregoing preamble and resolutions, and it was ascertained that 34,999 shares voted in the affirmative and none in the negative, whereupon the same were declared unanimously adopted.

And thereupon, the said Charles E. Gast being personally present, stated to the meeting for himself and for the Atchison, Topeka and Santa Fe Railroad Company, whom he represents as Trustee, and desired it entered of record accordingly, that his subscription to the capital stock of the Company shall stand for 14,993 shares instead of 34,993 shares as originally entered upon the subscription book.

D. & S. F. Ry. Co.
Stockholders'
Meeting.

Atchison Co. to
receive payment in
capital stock and first
mortgage bonds.

Vote to issue stock
and bonds to
Atchison Co.

Subscription for
capital stock to be
reduced from 34,993
to 14,993 shares.

Stock vote on
foregoing preamble
and resolutions.

Reduction of
subscription for
capital stock in
accordance with
foregoing vote.

D. & S. F. Ry. Co.
Stockholders'
Meeting.

Declaration and
acknowledgment that
the 14,993 shares of
capital stock to be
issued to the
Atchison Co. will
be fully paid.

Stock vote on
foregoing resolution.

Adjournment.

Mr. C. L. McIntosh offered the following, which was duly seconded;—

It is hereby declared and acknowledged that the 14,993 shares of the capital stock of this Company to be issued to the said Atchison, Topeka and Santa Fe Railroad Company under the agreement and vote last aforesaid will be, when issued and delivered, fully paid capital stock by the sums of money already advanced and now from time to time being advanced by the said Atchison, Topeka and Santa Fe Railroad Company under the said agreement.

A stock vote was taken upon the adoption of the foregoing preamble and resolution, and it was ascertained that 34,993 shares voted in the affirmative and none in the negative, whereupon the same was declared unanimously adopted.

There being no further business to be transacted, on motion the meeting adjourned.

CHAS. E. GAST,
Secretary.

AGREEMENT FOR CONSTRUCTION
 OF THE ROAD OF
THE DENVER AND SANTA FE RAILWAY CO.
 BY THE
ATCHISON COMPANY

AND PAYMENT FOR THE SAME IN STOCK AND BONDS OF
 THE FIRST NAMED COMPANY.

THIS INDENTURE, made on this second day of May May 2, 1887.
 in the year of our Lord One Thousand Eight Hundred and
 Eighty-seven, by and between The Denver and Santa Fe Parties.
 Railway Company, a corporation established and existing
 under the laws of the State of Colorado, hereinafter called
 the Denver Company, the Atchison Topeka and Santa Fe
 Railroad Company, a corporation created by and existing
 under the laws of the Territory and State of Kansas, here-
 inafter called the Atchison Company, and Charles E. Gast,
 Trustee for the said Atchison Company as hereinafter set
 forth,

WITNESSETH:

THAT WHEREAS, the said Denver Company desires to
 construct, complete and furnish its road from a connection
 with the road of The Pueblo and Arkansas Valley Railroad
 Company at Pueblo, Colorado, by way of Denver to the
 City of Golden in Jefferson County in said State of Colo-
 rado, as speedily as the same can be done with a due regard
 to economy, and for the purposes of its said road to pur-
 chase at foreclosure sale, or otherwise, the railroads, prop-
 erty and franchises of The Denver Circle Railroad Com-
 pany and The Denver Circle Real Estate Company, and
 for these purposes and for furnishing, improving and oper-
 ating its said road, and to provide for the payment of debts
 contracted for the purposes aforesaid, has resolved to bor-
 row such sums of money as may be necessary and to issue

Proposed construction
 of road and purchase
 of properties of
 D. C. R. R. Co. &
 D. C. R. E. Co.

Proposed issue
 of bonds.

Agreement for construction of road of D. & S. F. by Atchison Co.

and dispose of its First Mortgage Six per cent. Gold Bonds, dated June 1st 1887, and payable June 1st 1936, limited to \$25,000 per mile of railroad for any amount so borrowed, and to mortgage its corporate property and franchises to secure the said bonds,

Continuous line to be formed by the roads of the two companies.

AND WHEREAS, the road of the said Denver Company to be constructed as aforesaid when constructed will form a continuous line with the road of the said Atchison Company, connecting therewith through the constructed road of The Pueblo and Arkansas Valley Railroad Company, which is operated by the said Atchison Company under a lease, the said Atchison Company having guaranteed the principal and interest of the First Mortgage Bonds and the interest of the Second Mortgage Bonds of the said Pueblo and Arkansas Valley Railroad Company and being the owner and holder of all its Capital Stock except the shares held by the directors to qualify them,

Subscription by Atchison Co. through Charles E. Gast, Trustee, for capital stock of D. & S. F.

AND WHEREAS, the said Atchison Company through the said Charles E. Gast, Trustee, has subscribed for thirty-four thousand, nine hundred and ninety-three shares of the Capital Stock of the said Denver Company, the same being the entire Capital Stock of said Company, as authorized by its certificates of incorporation, except seven shares subscribed for by the seven directors, each having subscribed for one share,

Agreement of Atchison Co. to advance money for construction and purchase of Denver circle properties, receiving payment in capital stock and first mortgage bonds.

NOW THEREFORE, the said Atchison Company agrees to advance to said Denver Company such sums of money as may be from time to time required for the construction, furnishing and improvement of its road and for the purchase by the said Denver Company at foreclosure sale, or otherwise, of the railroads, property and franchises of The Denver Circle Railroad Company and The Denver Circle Real Estate Company, receiving in payment therefor fourteen thousand, nine hundred and ninety-three shares of the fully paid Capital Stock of the said Denver Company and its First Mortgage Six Per Cent. Gold Bonds to the extent of twenty-five thousand dollars (\$25,000) per mile of railroad, and limited to that amount by the mortgage under which they are to be issued;

The said Denver Company hereby agrees, in payment for the said sums of money to be advanced by the said Atchison Company as aforesaid, to issue, sell, and deliver its said bonds and stock to the said Atchison Company now and from time to time as the same may be required, to wit, fourteen thousand, nine hundred and ninety-three shares of the fully paid Capital Stock of the said Denver Company and all of the said Denver Company's First Mortgage Bonds to the extent of twenty-five thousand dollars (\$25,000) per mile of railroad;

Agreement for construction of road of D. & S. F. by Atchison Co.

Agreement of D. & S. F. to issue and deliver such stock and bonds.

It is agreed by and between the parties hereto that the said subscription of the said Charles E. Gast, Trustee, to the Capital Stock of the said Denver Company shall be changed from thirty-four thousand, nine hundred and ninety-three shares, to fourteen thousand, nine hundred and ninety-three shares, so that the entire issue of the Capital Stock of the said Denver Company shall for the present be fifteen thousand (15,000) shares, or one million, five hundred thousand dollars (\$1,500,000), and the remainder of the authorized Capital Stock of the said Denver Company, to wit, twenty thousand shares (20,000), or two million dollars (\$2,000,000) shall be held and kept in the treasury of the said Denver Company and not open for subscription until the future needs of the said Company shall so demand, the same to be determined by the stockholders of the said Denver Company.

Agreement that subscription for the capital stock shall be reduced from 34,993 shares to 14,993.

Provision in regard to remainder of authorized capital stock.

IN WITNESS WHEREOF the said Denver Company and the said Atchison Company have caused their respective corporate seals to be hereto affixed, and these presents to be signed by their respective Presidents and attested by their respective Secretaries or Assistant Secretaries, and the said Charles E. Gast, Trustee, has hereunto set his hand and seal all on the day and year first above written.

Attesting clause.

THE DENVER AND SANTA FE RAILWAY COMPANY.

By CHARLES C. WELCH,

[SEAL]

President.

Attest:

CHAS. E. GAST,

Secretary.

The D. & S. F. Ry. Co.

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Agreement for
construction of road
of D. & S. F. by
Atchison Co.

ATCHISON TOPEKA AND SANTA FE RAILROAD.

By WM. B. STRONG,
President.

[SEAL]

Attest:

GEO. L. GOODWIN,
Assistant Secretary.

CHAS. E. GAST, [SEAL]
Trustee.

Ratification of
foregoing agreement
by stockholders of
Atchison Co.

THE FOREGOING AGREEMENT was ratified by the Stock-
holders of the Atchison Company at an adjourned meeting
held at Topeka Kansas on June 20 1887.

FURTHER RATIFICATION

OF FORM OF FOREGOING AGREEMENT OF MAY 2, 1887, BY

THE DENVER AND SANTA FE RAILWAY CO.

AND CANCELLATION OF SEVEN SHARES OF STOCK ISSUED BY
MISTAKE UNDER THE SAID AGREEMENT.

RECORD OF A MEETING OF THE EXECUTIVE COMMITTEE OF
THE DENVER AND SANTA FE RAILWAY COMPANY, HELD
AT BOSTON ON OCTOBER 2, 1888.

D. & S. F. Executive
Committee Meeting
Oct. 2, 1888.

BOSTON, October 2, 1888.

A meeting of the Executive Committee of The Denver and Santa Fe Railway Company was held at the office of the Company, No. 95 Milk St., Boston at 11 o'clock A.M. this day pursuant to call of the President.

There were present Messrs. Wm. B. Strong, I. T. Burr, A. W. Nickerson, and B. P. Cheney.

Persons present.

President Strong in the Chair.

The following preamble and vote, offered by Mr. Burr and duly seconded were carried unanimously:

Preamble and vote
unanimously passed.

WHEREAS, the Indenture between this Company and the Atchison, Topeka and Santa Fe Railroad Company, dated the 2d day of May 1887, heretofore approved by the Board and executed by the President and attested by the Secretary of the Company, although its provisions were incorporated in votes passed by the Board on the 4th day of May 1887, was not inserted at length in the record,

Recital as to failure
to insert foregoing
Indenture in records
of previous meeting.

Now it is

VOTED, that the said Indenture is hereby ratified in the following form as heretofore executed, and is to be set forth in the record of this meeting:

Ratification of
foregoing Indenture
as executed.

[Here follows in the record of the meeting a copy of the Indenture above referred to.]

**D. & S. F. Executive
Committee Meeting
Oct. 2, 1888.**

**Over-issue to Atchison
Co. of seven shares of
D. & S. F. stock,
owing to clerical
error.**

**Re-transfer of said
shares.**

**Vote to cancel said
seven shares.**

The following preamble and vote were on motion of Mr. Burr, duly seconded, adopted unanimously:

WHEREAS, in carrying out the provisions of the Indenture between this Company and the Atchison, Topeka and Santa Fe Railroad Company, of May 2d 1887, there were delivered to the said Atchison, Topeka and Santa Fe Railroad Company, owing to a clerical error, certificates for seven more shares of this Company's capital stock than were called for by the terms of said Indenture, and

WHEREAS, the said error having been discovered, the said Atchison, Topeka and Santa Fe Railroad Company has re-transferred to this Company the said seven shares,

It is now

VOTED, that the said seven shares of stock be cancelled and not reissued again at present, but be treated as part of the 20,000 shares named in the said Indenture, which are to be held in the treasury of this Company as in the said Indenture provided.

On motion of Mr. Burr, duly seconded,

VOTED to adjourn.

C. S. TUCKERMAN,
Asst. Secretary.

LEASE.

OF THE RAILROAD AND PROPERTY OF

**THE DENVER AND SANTA FE RAILWAY
COMPANY**

TO THE

**ATCHISON, TOPEKA AND SANTA FE RAIL-
ROAD COMPANY.**

THIS INDENTURE OF LEASE made on this first Oct. 1, 1887.
day of October in the year of our Lord one thousand eight
hundred and eighty-seven, by and between THE DENVER Parties.
AND SANTA FE RAILWAY COMPANY, a corporation estab-
lished under the laws of the State of Colorado, hereinafter
called the Denver Company, and the ATCHISON TOPEKA
AND SANTA FE RAILROAD COMPANY, a corporation created
by and existing under the laws of the Territory and State
of Kansas, hereinafter called the Atchison Company,
WITNESSETH:

THAT WHEREAS the said Denver Company was incorpo-
rated for the purpose of constructing, maintaining and oper-
ating a line of railway and telegraph, with such branches
as might thereafter be determined upon, beginning at the
city of Pueblo, in Pueblo County, following thence in a
general northerly direction along the *Fontaine qui Bouille*
to Colorado Springs, and in the same general direction and
by the most practicable route to Denver, and thence to the
city of Golden, in Jefferson County, all in the State of
Colorado; and for the purpose aforesaid to purchase at
foreclosure sale, or otherwise, the railroads, property and
franchises of The Denver Circle Railroad Company, to lay
a third rail thereon, and to operate the same in and around
the City of Denver, and to purchase such other railway
property, interests, or real estate contiguous to the route
indicated as might be needed for terminal or other railroad
purposes;

Corporate purposes
and authorized lines.

**Lease of D. & S. F.
to Atchison Co.**

AND WHEREAS the said Denver Company has constructed the portion of its said line from Pueblo to Denver and is now operating the same, and contemplates the extension of its said line hereafter as authorized by its Articles of Incorporation and the construction of such branches of its said line as may become necessary or expedient;

**Road constructed to
Denver and extensions
contemplated.**

**Lines of two
companies continuous
and connected.**

AND WHEREAS the lines of the roads of the said Denver and Atchison companies are continuous and connected and not competing or parallel;

**Two roads form a
continuous line
with each other.**

AND WHEREAS the road of the said Denver Company constructed and to be constructed as aforesaid forms a continuous line with the road of the said Atchison Company, connecting therewith through the constructed road of the Pueblo and Arkansas Valley Railroad Company, which is operated by the said Atchison Company under a lease, the said Atchison Company having guaranteed the principal and interest of the First Mortgage Bonds and the interest of the Second Mortgage Bonds of the said Pueblo and Arkansas Valley Railroad Company and being the owner and holder of all its capital stock except the shares held by the directors to qualify them;

**Atchison Co. owner
of all the capital stock
of the D. & S. F.
except shares held to
qualify directors.**

AND WHEREAS the said Atchison Company is the owner and holder of all the capital stock of the said Denver Company, except the shares held by the directors to qualify them, so that the interests of the said two companies are identical;

**Road can be more
conveniently and
economically
managed by
Atchison Co.**

AND WHEREAS the line of the said Denver Company can be more conveniently and economically managed and operated by the said Atchison Company than by the said Denver Company itself:

Granting clause.

NOW THEREFORE THE SAID DENVER COMPANY in consideration of the premises and of the covenants and agreements of the said Atchison Company hereinafter contained, doth by these presents GRANT LEASE AND DEMISE to the said Atchison Company and its successors all its line of railway and telegraph with the branches thereof as now located and constructed or as it may hereafter be located and constructed during the period of this lease; the said railroad now running from Pueblo to Denver by the route

**Description of
property leased.**

hereinbefore described, a distance of about one hundred and seventeen miles, and being authorized to run also from Denver to the city of Golden with such branches to the said line as may hereafter be determined upon; and the said Denver Company being likewise authorized to operate the railroads formerly pertaining to The Denver Circle Railroad Company in and around the city of Denver;

Lease of D. & S. F.
to Atchison Co.

TOGETHER WITH all property and rights now or hereafter appertaining to the said line of railway and telegraph or the equipment or operation thereof:

Appurtenances.

INCLUDING all railroads, telegraphs, ways, rights of way, rolling-stock and equipments; all tracks, bridges, viaducts, culverts, fences, and other structures; all depots, depot-grounds, station-houses, engine-houses, machine-shops, and other buildings; whether now held or hereafter to be acquired; and including also all lands and real estate and all other property real and personal of every nature whatsoever now belonging to the said Denver Company or which may hereafter be acquired by it; and all the rights, privileges, and franchises of said Denver Company necessary to the operation and management of said line or the business thereof now held or hereafter to be acquired by the said Denver Company; likewise including all the railroads, property and franchises formerly belonging to The Denver Circle Railroad Company and purchased by the said Denver Company or which the said Denver Circle Railroad Company was authorized by its articles of incorporation to construct and acquire;

What property
included in lease.

BUT SUBJECT to a first mortgage made by the said Denver Company to Arthur F. Luke, William P. Ellison and George A. Burdett, Trustees, dated the fourth day of May A.D. 1887.

Subject to first
mortgage.

TO HAVE AND TO HOLD said demised railroad and premises aforesaid unto the said Atchison Company, its successors and assigns, from the first day of October, eighteen hundred and eighty-seven, until the twenty-first day of March nineteen hundred and thirty-seven, and in case the corporate existence of the said Denver Company shall hereafter be extended, then until the day preceding the

Habendum clause.

Term of lease.

Lease of D. & S. F.
to Atchison Co.

last day of such extended corporate existence, yielding and paying therefor rent as hereinafter provided, subject however to the said first mortgage to the said Luke, Ellison and Burdett, Trustees, and all of the provisions thereof.

Mutual covenants.

AND, IN CONSIDERATION OF THE PREMISES, THE PARTIES HERETO DO COVENANT, PROMISE AND AGREE each for itself, its successors and assigns, to and with the other its successors and assigns, as follows, to wit:—

Atchison Co. to
manage and operate
leased line.

ARTICLE FIRST.—THE SAID ATCHISON COMPANY at all times during the continuance of the said term of this lease shall and will maintain, manage, use, and operate, and keep in good and working order, condition, and repair, at its own expense, except as hereinafter provided, the entire line hereby demised, after its completion by the said Denver Company, and all the fixtures and appurtenances thereof, and keep the same fully supplied with motive power, rolling-stock, and equipment, so that the traffic and business of the road shall be encouraged and developed, and full accommodation given to the public on reasonable terms, and shall and will deliver up the said line and all its buildings, fixtures, and appurtenances, except such removable property as is provided for in Article Ninth of this Indenture, at the expiration of said term, in good order and repair.

Atchison Co to
employ all necessary
superintendents and
employees.

ARTICLE SECOND.—The said Atchison Company will, at its own cost, employ during the continuance of the said term all such superintendents and employees as shall be necessary to maintain, work, use, and operate said line hereby demised.

Rental.

ARTICLE THIRD.—The said Atchison Company shall, during the existence of this lease, AS AND FOR RENTAL to be paid for the use of said line to the said Denver Company, pay promptly, as the same become due and payable according to their tenor, the interest or coupons of and upon the first mortgage bonds of the said Denver Company, issued under and in accordance with the terms of the mortgage above named; and also the interest or coupons of and upon any bonds hereafter issued by the said Denver Company under and in accordance with the provisions of Article Fifth of this Indenture.

And shall also, during the existence of this lease, pay promptly, as the same become due and payable according to their tenor, the interest or coupons of and upon any bonds, secured by mortgage or not, which the said Denver Company may with the consent and concurrence of the said Atchison Company issue in order to redeem, take up, and pay at maturity any of the bonds above named falling due during the continuance of this lease; the said Atchison Company having the option of buying at maturity any of said bonds so falling due, and holding the same against the said Denver Company, instead of allowing such new bonds to be issued in place thereof.

Lease of D. & S. F.
to Atchison Co.

ARTICLE FOURTH.—The said Atchison Company shall at all times during the continuance of this lease pay all taxes and assessments at any time hereafter imposed upon the said Denver Company under authority of any United States, State, County, City, or Township law, or under any other lawful authority, or upon the whole or any part of the said line or its buildings or appurtenances, or any property hereby demised.

Atchison Co. to pay
all taxes and
assessments.

ARTICLE FIFTH.—Should it become necessary or desirable in the judgment of the directors of the said Atchison Company, for the accommodation of the business of said demised road, to build any branches or extensions authorized by the articles of incorporation of the said Denver Company, or to construct additional side tracks, erect additional station-houses, water-stations, water-houses, round-houses, or shops, or make other permanent improvements, including fencing, the said Atchison Company will advance to the said Denver Company such sums of money as may be from time to time required for the said purposes until the whole amount of money so advanced, together with all sums theretofore advanced by the said Atchison Company to the said Denver Company under the Agreement between the two companies for the construction of the said Denver Company's road dated the second day of May A.D. 1887, shall with interest thereon be equal to twenty-five thousand dollars for each mile of road of the

Provisions in
case extensions or
improvements
become necessary.

Lease of D. & S. F.
to Atchison Co.

said Denver Company constructed; all advances so made being considered and treated as made under the terms of the said Agreement of May 2nd 1887. But after the said amount of twenty-five thousand dollars per mile shall have been reached as aforesaid, the said Denver Company agrees that it will, upon request of the said Atchison Company, construct all such branches and extensions and make all such additions and improvements at its own cost and expense. All such branches extensions additions and improvements, after the said amount of twenty-five thousand dollars per mile shall have been reached as aforesaid, may be constructed and made by the said Atchison Company, which shall thereupon be paid the cost and expense thereof by the said Denver Company in bonds of said Denver Company, secured by mortgage or otherwise, or unsecured, or in shares of the capital stock of the said Denver Company or in all or any of these at the option of said Atchison Company, the terms of any such payment to be fixed at the time thereof.

All money advanced
by Atchison Co. for
purchase of properties
of D. C. R.R. Co.
& D. C. R. E. Co. to
be treated as advanced
under agreement of
May 2, 1887.

Application of
proceeds of sales of
real estate by D. &
S. F. under terms of
first mortgage.

Atchison Co.
to pay all damages
for injury to person
or property.

All sums of money advanced by the said Atchison Company to the said Denver Company for the purchase of the railroads, property and franchises of The Denver Circle Railroad Company and the Denver Circle Real Estate Company shall be credited to the said Atchison Company as money advanced under the terms of the said Agreement of May 2nd 1887; and all proceeds of sales of real estate made by the said Denver Company shall be applied to the construction, improvement or equipment of the railroads and permanent property of the said Denver Company in accordance with the provisions of the said first mortgage of the said Denver Company.

ARTICLE SIXTH.—The said Atchison Company shall assume and pay all damages, demands, and liabilities which may arise or be incurred by reason of any injury or damage to person or property, and all other damages whatsoever resulting from or growing out of the maintenance, repair, operation, and running of said railroad by the said Atchison Company, and will pay any penalties which may be imposed upon the railroad of the

Denver Company, or upon said Denver Company, by reason of any neglect or omission of the said Atchison Company to comply with any statute, or by reason of the commission of any act which may be prohibited by law in the use of said railroad and the premises hereby granted; and the said Atchison Company agrees to indemnify and save harmless the said Denver Company against all expense, loss, damage, and cost, by reason of any of the matters and things aforesaid, and against any and all costs and expenses in any suit or proceedings authorized in the name of the said Denver Company.

Lease of D. & S. F.
to Atchison Co.

The said Atchison Company shall furnish, at the request of the said Denver Company, from time to time whenever necessary, any and all reports and statements which the said Denver Company is now or may be hereafter required to make or file under or by virtue of any law enacted by competent authority.

Atchison Co. to
furnish all necessary
reports and
statements.

ARTICLE SEVENTH.—The said Atchison Company shall at all times during the said term have the full and exclusive right to manage, use, and control said demised railroad and premises, and to regulate and determine the rates of tolls, freight, and charges for all the transportation over the whole or any part of said demised railroad and premises, and to charge and collect the same and appropriate the same to its own use, and shall have, use, exercise, and enjoy all the rights, powers, and authority aforesaid, and all other corporate powers, and all rights, powers, easements, privileges, and immunities now possessed or which may hereafter be acquired by the said Denver Company, necessary or convenient for the use, possession, enjoyment, management, and operation of the said demised railroad and premises as herein provided.

Atchison Co. to have
exclusive use and
control of leased line
and right to regulate
rates.

ARTICLE EIGHTH.—The said Denver Company covenants and agrees that it is well and lawfully possessed of the premises hereby demised, and has full power to convey the same as aforesaid, and the same in quiet enjoyment of the said Atchison Company will warrant and defend, subject to the mortgage aforesaid;

Covenants of title and
quiet possession.

That it and its successors shall and will, whenever

Covenants of D. & S. F.

Lease of D. & S. F.
to Atchison Co.

required by the said Atchison Company or its successors, during the continuance of the said term, do and perform any and every corporate act which may be necessary useful or appropriate to secure to the said Atchison Company or its successors the full enjoyment of the premises hereby demised, and of every franchise, right, easement, power, privilege, and immunity connected therewith or appertaining to the same now possessed or which may be hereafter possessed by the said Denver Company or its successors, and hereby granted or intended to be granted to the said Atchison Company and its successors under this instrument;

Covenant of further
assurance.

That it will hereafter, at any time, upon the request of the said Atchison Company, give, make, and execute such further and other conveyances, assurances, papers, and instruments as may be necessary or proper to carry into full force and effect all the purposes of this Indenture.

D & S. F. appoints
Atchison Co. its
attorney.

And to enable the said Atchison Company to beneficially enjoy said property, rights, privileges, and benefits herein demised and mentioned, the said Denver Company hereby appoints the said Atchison Company and its successors and assigns its attorney irrevocable, during the existence of this lease, with full power and right to use the name of the said Denver Company in and about the business, maintenance, operation, and use of said road, with power to make any and all contracts in proper furtherance of the objects hereinbefore set forth with any person or corporation in the name of said Denver Company, under its corporate seal or otherwise, and generally to do all other acts and things in and about the premises which said Denver Company might lawfully do, and to use the name of said Denver Company in and about any legal proceedings and suits either in law or in equity, as the said Atchison Company may deem requisite and necessary in carrying out the objects and intent of this Indenture.

Provision in regard
to rolling stock and
other removable
property.

ARTICLE NINTH.—All rolling-stock and all other removable property which said Atchison Company shall purchase or obtain for any purpose in connection with the railroad or other property hereby demised shall be and

remain the property of said Atchison Company, and may, as well as any rails, sleepers, and other property which it desires to remove for the purpose of repairs or improvements, be removed and disposed of by said last-named Company for its own use; it being always understood and agreed however that it shall keep and deliver up said railroad and other property hereby demised in good repair and good working order and condition as hereinbefore agreed.

Lease of D. & S. F. to Atchison Co.

ARTICLE TENTH.—This lease is upon condition that the failure of the said Atchison Company for a period of three months to perform the covenants as to payment of rent herein contained shall terminate said lease, if said Denver Company shall so elect.

On failure for three months to pay rent, D. & S. F. may terminate lease.

ARTICLE ELEVENTH.—All matters of dispute which may arise between the parties hereto in connection with or growing out of this Indenture shall be submitted to the arbitrament and award of three disinterested persons, one to be chosen by each of the parties hereto, and the third by the two so chosen; and the award of these three or of a majority of them shall be final and binding upon the parties hereto upon all the matters submitted to such arbitrators.

Provision for arbitration in case of dispute.

IN WITNESS WHEREOF, the parties hereto have caused their respective corporate seals to be affixed to these presents as also to a counterpart hereof, and the same to be signed by their respective Presidents and attested by their respective Secretaries or Assistant Secretaries thereunto duly authorized, on the day and year first above written.

Attesting clause.

THE DENVER AND SANTA FE RAILWAY COMPANY.

By CHARLES C. WELCH,

[SEAL] *President.*

Attest:

CHAS. E. GAST,

Secretary.

ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY.

By WM. B. STRONG,

[SEAL] *President.*

Attest:

GEO. L. GOODWIN,

Assistant Secretary.

Lease of D. & S. F.
to Atchison Co.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE. }

Acknowledgment
by D. & S. F.

I, Chas. W. Reitler, a Notary public within and for the County and State aforesaid do hereby certify that Chas. C. Welch who is personally known to me to be the same person whose name is subscribed to the foregoing instrument and personally known to me to be the President of The Denver and Santa Fe Railway Company, appeared before me this day in person, and acknowledged that the foregoing instrument was signed by him and executed sealed and delivered by the said Railway Company for the uses and purposes therein set forth. Given under my hand and notarial seal, on this 29th day of Decb'r A.D. 1887.

My commission expires April 9, 1891.

CHAS. W. REITLER,
Notary Public.

[SEAL]

Acknowledgment by
Atchison Co.

COMMONWEALTH OF MASSACHUSETTS, }
COUNTY OF SUFFOLK. }

I, Henry W. Swift, a Notary Public within and for the County and State aforesaid do hereby certify that William B. Strong who is personally known to me to be the same person whose name is subscribed to the foregoing instrument and personally known to me to be the President of the Atchison, Topeka and Santa Fe Railroad Company, appeared before me this day in person, and acknowledged that the foregoing instrument was signed by him and executed sealed and delivered by the said Railroad Company for the uses and purposes therein set forth. Given under my hand and notarial seal, on this 8th day of Novbr. A.D. 1887.

HENRY W. SWIFT,
Notary Public.

[SEAL]

COPY OF RESOLUTION OF THE STOCKHOLDERS OF THE
DENVER AND SANTA FE RAILWAY COMPANY PASSED
AT A MEETING HELD ON THE 29 DAY OF DEC. 1887.

Lease of D. & S. F.
to Atchison Co.

Resolved, That the Indenture of Lease between this Company and the Atchison, Topeka and Santa Fe Railroad Company heretofore duly executed dated the first day of October 1887 leasing the road and property of this Company to the said Atchison, Topeka and Santa Fe Railroad Company, is hereby approved, ratified and assented to.

Ratification of
foregoing lease by
stockholders of
D. & S. F.

I hereby certify that the above is a true copy of a resolution passed by the stockholders of the Denver and Santa Fe Railway Company at a meeting called for that purpose on thirty days' notice to each stockholder and in the manner provided for the annual stockholders' meetings and held at Denver, Colorado, on the 29 day of Dec. 1887, and that the holders of more than two-thirds of the capital stock of said Railway Company in person or by proxy voted for said resolution.

CHAS. E. GAST,
Secretary.

[SEAL]

COPY OF RESOLUTION OF THE STOCKHOLDERS OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY PASSED
AT A MEETING HELD ON THE 10 DAY OF MAY 1888.

Resolved, That the Indenture of Lease between the Denver and Santa Fe Railway Company and this Company heretofore duly executed dated the first day of October 1887 leasing the road and property of The Denver and Santa Fe Railway Company to this Company, is hereby approved, ratified and assented to.

Ratification of
foregoing lease by
stockholders of
Atchison Co.

I hereby certify that the above is a true copy of a resolution passed by the stockholders of the Atchison, Topeka and Santa Fe Railroad Company at a meeting called for that purpose on thirty days' notice to each stockholder and in the manner provided for the annual stockholders' meetings and held at Topeka, Kansas, on the 10 day of May, 1888, and that the holders of more than two-thirds of the capital stock of said Railroad Company in person or by proxy voted for said resolution.

E. WILDER,
Secretary.

[SEAL]

DOCUMENTS

RELATING TO

THE COLORADO MIDLAND RAILWAY
COMPANY.

The Colorado Midland Railway Company was created under the laws of the State of Colorado by Articles of Incorporation dated November 23, 1883.

MILEAGE

OF

THE COLORADO MIDLAND RAILWAY
COMPANY.

MAIN LINE:

Colorado Springs to New Castle, . . .	233.91 miles.
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BRANCHES:

Aspen Junction to Aspen,	18.40 miles	
Cardiff to Spring Gulch,	15.00 "	33.40 "

LEASED LINES:

Union Depot, Colorado Springs, to Station O (A., T. & S. F. Rd.)45 Miles
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Newcastle to Rifle (D. & R. G. Rd.) . .	13.41 "
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Rifle to end of Rio Grande Junction Ry. (Rio Grande Junction Ry.) . .	62.08 "
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End of Rio Grande Junction Ry. to Grand Junction (D. & R. G. Rd.) . .	.57 "
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Snowden to Arkansas Junction (Aspen Short Line Ry.)	6.60 "	83.11 "
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Total Mileage, . .	350.42 miles.
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ARTICLES OF INCORPORATION
OF
THE COLORADO MIDLAND RAILWAY
COMPANY.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Sec'y of State.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Incorporation of the Colorado Midland Railway Company which was filed in this Office the twenty third day of November A.D. 1883 at 4 o'clock P.M., and admitted to record.

Articles filed
Nov. 23, 1883.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this thirteenth day of July A.D. 1892.

[SEAL].

E. J. EATON,
Secretary of State.

CERTIFICATE OF INCORPORATION
OF
THE COLORADO MIDLAND RAILWAY
COMPANY.

WHEREAS, We the undersigned desire to form a Company under and by virtue of the provisions of Chapter Nineteen of the General Laws of the State of Colorado entitled "Corporations" for the objects and purposes herein set forth:

NOW THEREFORE, This is to certify

First. That the Corporate name of the said Company **Corporate name.** shall be THE COLORADO MIDLAND RAILWAY COMPANY.

**Art. of Inc.
C. M. Ry. Co.**

Authorized lines.

Capital stock.

**Term of corporate
existence.**

**Trustees and
directors.**

**Principal office and
counties where
principal business
is to be carried on.**

**Directors may make
by-laws.**

**Meetings of directors
may be held beyond
limits of State.**

Officers.

Second. That the object of said Company shall be to locate, construct, operate and maintain a railway and telegraph line from the City of Colorado Springs in El Paso County, through the Ute Pass into South Park, and by the most eligible route to Salida and Leadville with a branch down the valley of Trout Creek to its Junction with the South Platte River.

Third. The Capital Stock of the Company shall be Five Hundred Thousand Dollars to be Divided into Five Thousand Shares at One Hundred Dollars each share.

Fourth. The term of the Corporate existence of said Company shall be Fifty years from date of filing this certificate.

Fifth. The number of Trustees of the said Company shall be Five, and John Eaton LeConte of the City of Philadelphia and State of Pennsylvania, Henry T. Rogers and John H. Linck of Denver in Arapahoe County, and Edwin W. Edwards of Rush Creek, Elbert County and Charles A. Lansing of Colorado Springs in El Paso County, the last four being of the State of Colorado, are hereby designated as Directors to manage the affairs of the Company for the first year of its existence.

Sixth. The principal office of the said Company shall be in the City of Colorado Springs, County of El Paso, Colorado and the principal business of the Company shall be carried on in the Counties of El Paso, Park, Chaffee, Lake, Douglas, in Colorado.

Seventh. The Directors shall have power to make such By-Laws as they may deem proper for the management of the affairs of the Company.

Eighth. Meetings of the Directors of said Company may be held beyond the limits of this State at such time and place as they may be called, in pursuance of the By-Laws of the Company.

Ninth. The government of this Company and the management of its affairs shall be vested in the following officers to wit: a President, Vice President, Secretary and Treasurer and the Board of Directors.

IN WITNESS WHEREOF we have hereunto set our hands and seals this 22nd day of November 1883 and respectively prefixed our place of residence.

Art. of Inc.
C. M. Ry. Co.
Attesting clause.

PHILADELPHIA,
JOHN EATON LeCONTE. [SEAL]
DENVER, COLORADO,
HENRY T. ROGERS. [SEAL]
DENVER, COLORADO,
JOHN H. LINCK. [SEAL]
RUSH CREEK, ELBERT Co.,
EDWIN W. EDWARDS. [SEAL]
COLORADO SPRINGS,
CHARLES A. LANSING. [SEAL]

STATE OF COLORADO, }
COUNTY OF EL PASO. } ss.

Acknowledgments.

On this 22nd day of November A.D. 1883 before me personally at the City of Colorado Springs, in the County of El Paso State aforesaid came the above named John Eaton LeConte, John H. Linck, Edwin W. Edwards and Chas. A. Lansing who are known to me to be the same persons described in and who subscribed the preceding certificate and they severally acknowledge the execution thereof, each for his own act and deed, for the uses and purposes therein mentioned.

WILLIAM H. GESELBRACHT,
[SEAL] *Notary Public.*

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this 23d day of November A.D. 1883 at Denver Colorado, before me a Notary Public in and for said County of Arapahoe personally appeared the above named Henry T.

The C. M. Ry. Co.

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Art. of Inc.
C. M. Ry. Co.

Rogers to me personally known to be the same person who executed the foregoing certificate of incorporation and acknowledged that he executed the same as his free and voluntary act for the uses and purposes therein set forth.

ROBERT H. McMANN,
Notary Public.

[SEAL]

Indorsement on
foregoing articles as
to filing and recording
thereof.

(Indorsed.)

THE COLORADO MIDLAND RAILWAY COMPANY.

DOMESTIC.

FILED in the office of the Secretary of State, of the State of Colorado, on the 23 day of Nov. A.D. 1883, at 4 o'clock, P.M.

Recorded in Book 8 Page 244.

MELVIN EDWARDS,
Secretary of State.

AMENDMENTS
TO
ARTICLES OF INCORPORATION
OF
THE COLORADO MIDLAND RAILWAY
COMPANY

FILED MAY 4, 1884.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Sec'y of State.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Amendments to Articles of Incorporation of The Colorado Midland Railway Company which was filed in this Office the Fourth day of May A.D. 1884 at 4 o'clock P.M., and admitted to record.

Amendments filed
May 4, 1884.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Thirteenth day of July A.D. 1892.

[SEAL]

E. J. EATON,
Secretary of State.

AMENDMENTS TO THE ARTICLES OF INCORPORATION OF THE
COLORADO MIDLAND RAILWAY COMPANY.

At a meeting of the Stockholders of the Colorado Midland Railway Company held at Colorado Springs, El Paso County, Col. on the twenty-second day of April 1884, at which meeting all of the Stockholders of said Company were present in person or represented by proxy, the following Amendments to the original Articles of Incorporation of said Company were unanimously adopted.

Recital as to meeting
of stockholders held
April 22, 1884.

FIRST AMENDMENT to Article Second of said original Articles of Incorporation the following words were added, to wit;

First amendment
authorising new
branch.

Amendments
to Art. of Inc.
C. M. Ry. Co.
Second amendment
as to capital stock.

"And with a Branch to Fairplay and Alma and to the Mining districts adjacent thereto."

SECOND AMENDMENT. Article Third was amended so as to read as follows, to wit;

"The Capital Stock of the said Company shall be Two Million Five Hundred Thousand Dollars to be divided into Twenty Five Thousand Shares of the par value of One Hundred Dollars each.

Third amendment
as to number
of directors and
names of directors
for first year.

THIRD AMENDMENT. Article Fifth was amended so as to read as follows, to wit:

"The number of Directors of said Company shall be Eleven and Irving Howbert, Joseph F. Humphrey, Ed. S. Alexander, Charles A. Lansing who reside at Colorado Springs El Paso Co. Col. Homer D. Fisher and John H. Linck who reside at Manitou Park, El Paso County, Col. Edwin W. Edwards who resides at Hugo, Elbert Co. Col. Henry T. Rogers who resides at Denver, Arapahoe County, Col. and James Lang, E. Stanley Perkins and Charles Mathews Jr. who reside at Philadelphia, Philadelphia County, Penn., are hereby designated as the Directors who shall manage the affairs of the said Company for the first year of its existence."

Certificate of
President and
Secretary of Ry. Co.
that foregoing
amendments were
unanimously adopted
by stockholders.

We Edwin W. Edwards and John H. Linck who are respectively President and Secretary of the Colorado Midland Railway Company do hereby certify that at a meeting of the Stockholders of said Company held at Colorado Springs, El Paso County, Col. on the Twenty-second day of April 1884, the foregoing amendments to the original Articles of Incorporation of said Company designated, "First Amendment," "Second Amendment," "Third Amendment" were unanimously adopted and we further certify that at said meeting all of the Stockholders of the said Company were present in person or represented by proxy.

EDWIN W. EDWARDS,
President of Colorado Midland Ry. Co.

[COMPANY'S SEAL]

JOHN H. LINCK,
Secretary.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

Amendments
to Art. of Inc.
C. M. Ry. Co.
Affidavit of President
of Ry. Co.

On this 30th day of April A.D. 1884 personally appeared before me the above named Edwin W. Edwards, who being by me first duly sworn on his oath says that the foregoing certificate by him signed and the matters and things therein contained are true in substance and in fact.

E. J. EATON,
County Clerk.

[SEAL]

(Indorsed.)

THE COLORADO MIDLAND RAILWAY COMPANY.
AMENDMENTS TO THE ORIGINAL CERTIFICATE OF INCORPORATION.
DOMESTIC.

Indorsement on
foregoing
amendments as to
filing and recording
thereof.

FILED in the office of the Secretary of State, of the State of Colorado, on the 4 day of May, A.D. 1884, at 4 o'clock P.M.

Recorded in Book 8 Page 523.

MELVIN EDWARDS,
Secretary of State.

ADDITIONAL AMENDMENTS
TO
ARTICLES OF INCORPORATION
OF
**THE COLORADO MIDLAND RAILWAY
COMPANY.**

FILED OCTOBER 9TH 1884.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Amendments filed
Oct. 9, 1884.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Amendments to Articles of Incorporation of The Colorado Midland Railway Company which was filed in this Office the Ninth day of October A.D. 1884 at 4 o'clock P.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado at the City of Denver this Thirteenth day of July A.D. 1892.

E. J. EATON,
Secretary of State.

Amendments.

ADDITIONAL AMENDMENTS TO THE ARTICLES OF INCORPORATION OF THE COLORADO MIDLAND RAILWAY COMPANY.

Meeting of
stockholders held
Oct. 7, 1884.

At a special meeting of the Stockholders of THE COLORADO MIDLAND RAILWAY COMPANY, held at Colorado Springs, El Paso County, Colorado, on the 7th day of October 1884, said meeting having been called pursuant to a resolution of the Board of Directors for the purpose of

considering a proposed increase of Capital Stock and other amendments to the Articles of Incorporation, at which meeting were present, in person or by proxy all of the Stockholders of said Company, the following amendments to the original Articles of Incorporation of said Company, as amended at a meeting of Stockholders held on April 22nd, 1884, were unanimously adopted:—

Additional
amendments to
Art. of Inc.
C. M. Ry. Co.
Amendments
unanimously adopted.

FIRST AMENDMENT: Article Second of the original Articles of Incorporation as amended at the meeting of April 22nd, 1884, was further amended by the addition of the following words: "and to locate, construct, operate and maintain a railway and telegraph line from Leadville, Lake County, Colorado, westward by the most eligible route to Aspen, Pitkin County, and through Pitkin, Eagle, Garfield and Mesa Counties by the most eligible route to the western boundary of the State of Colorado, with such branches as may be deemed necessary and desirable."

First amendment
making addition to
authorized line.

SECOND AMENDMENT: Article Third of the original Articles of Incorporation as amended at the said meeting of April 22nd, 1884, was further amended so as to read as follows, to wit: "The Capital Stock of the said Company shall be Five Million Dollars, to be divided into Fifty Thousand shares of the par value of one hundred dollars each."

Second amendment
increasing capital
stock.

THIRD AMENDMENT: Article Sixth of the original Articles of Incorporation was amended by inserting after the word "Douglas" the following words: "Pitkin, Eagle, Garfield and Mesa."

Third amendment
adding to names of
counties.

We, Joseph F. Humphrey and Charles A. Lansing, who are respectively President and Secretary of The Colorado Midland Railway Company, do hereby certify that at a meeting of the Stockholders of said Company held at Colorado Springs, El Paso County, Colorado, on the 7th day of October 1884, called in pursuance of a resolution of the Board of Directors for the purpose of considering a proposed increase of capital stock and other amendments to the Articles of Incorporation, the foregoing amendments to the original and amended Articles of Incorporation of said Company, designated "First Amendment," "Second

Certificate of
President and
Secretary of Ry. Co.
as to adoption of fore-
going amendments.

Additional
amendments to Art.
of Inc. C. M. Ry. Co.

Amendment " and "Third Amendment," were unanimously adopted; and we further certify that at said meeting of Stockholders, all of the Stockholders of the said Company were present in person or represented by proxy.

JOS. F. HUMPHREY,
[COMPANY'S SEAL] *President.*

Attest:

CHARLES A. LANSING,
Secretary.

Affidavit of President
of Ry. Co.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

On this 7th day of October 1884, before me, Henry Le B. Wills, a Notary Public personally appeared the above named Joseph F. Humphrey who, being by me first duly sworn, on his oath says that he is the President of the Colorado Midland Railway Company and that the foregoing certificate by him signed and the matters and things therein contained are true in substance and in fact.

HENRY LE B. WILLS,
[SEAL] *Notary Public.*

Indorsement on
foregoing
amendments as to
filing and recording
thereof.

(Indorsed.)

ADDITIONAL AMENDMENTS TO THE ARTICLES OF INCORPORATION OF THE COLORADO MIDLAND RAILWAY COMPANY. DOMESTIC.

FILED in the office of the Secretary of State, of the State of Colorado, on the 9th day of Oct. A.D. 1884, at 4 o'clock, P.M.

Recorded in Book 10 Page 137.

MELVIN EDWARDS,
Secretary of State.

ARTICLES OF INCORPORATION
OF
THE COLORADO MIDLAND RAILWAY COMPANY

AS AMENDED, FILED OCTOBER 9TH, 1884.

[Embodying therein the foregoing amendments.]

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Sec'y of State.

I, E. J. Eaton, Secretary of State, of the State of Colorado do hereby certify that the annexed is a full, true and complete transcript of the Articles of Incorporation of The Colorado Midland Railway Company as amended which was filed in this Office the Ninth day of October A.D. 1884 at 5 o'clock P.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Thirteenth day of July A.D. 1892.

[SEAL]

E. J. EATON,
Secretary of State.

ARTICLES OF INCORPORATION OF THE COLORADO MIDLAND
RAILWAY COMPANY AS AMENDED.

Special meeting of
stockholders
Oct. 7, 1884.

At a special meeting of the Stockholders of the Colorado Midland Railway Company held at Colorado Springs, Colorado, on the 7th day of October 1884, said meeting having been called in pursuance of a resolution of the Board of Directors for the purpose of considering proposed amendments to the Articles of Incorporation of said Company, and all the stockholders being present in person or represented by proxy, the following preamble and articles were unanimously adopted and declared to be the Articles of Incorporation of said Company as amended.

Articles of
Incorporation as
amended unanimously
adopted.

Art. of Inc. of C. M.
Ry. Co. embodying
amendments.

WHEREAS, We, the undersigned, desire to form a Company under and by virtue of the provisions of Chapter Nineteen of the General laws of the State of Colorado entitled "Corporations" for the objects and purposes herein set forth, Now, Therefore, this is to certify:

Corporate name.

First. That the corporate name of the said Company shall be "THE COLORADO MIDLAND RAILWAY COMPANY."

Corporate purposes
and authorized lines.

Second. That the object of said Company shall be to locate, construct, operate and maintain a railway and telegraph line from the City of Colorado Springs in El Paso County through the Ute Pass into South Park and by the most eligible route to Salida and Leadville, with a branch down the valley of Trout Creek to its junction with the South Platte River, and with a Branch to Fairplay and Alma and the mining districts adjacent thereto.

Also to locate, construct, operate and maintain a railway and telegraph line from Leadville, Lake County, Colorado, westward by the most eligible route to Aspen, Pitkin County and through Pitkin, Eagle, Garfield and Mesa Counties, by the most eligible route to the western boundary of the State of Colorado, with such branches as may be deemed necessary and desirable.

Capital stock.

Third. The Capital Stock of the said Company shall be Five Million Dollars to be divided into Fifty Thousand Shares of the par value of One Hundred Dollars each.

Term of corporate
existence.

Fourth. The term of the Corporate existence of said Company shall be Fifty years from date of filing this Certificate.

Directors.

Fifth. The number of Directors of said Company shall be Eleven, and Irving Howbert, Joseph F. Humphrey, Ed. S. Alexander, Charles A. Lansing, who reside at Colorado Springs, El Paso County, Colorado, Homer D. Fisher and John H. Linck, who resides at Manitou Park, El Paso County, Colorado, Edwin W. Edwards, who resides at Hugo, Elbert County, Colorado, Henry T. Rogers, who resides at Denver, Arapahoe County, Colorado, and James Long, E. Stanley Perkins and Charles Mathews, Jr., who reside at Philadelphia, Philadelphia County, Pennsylvania, are hereby designated as the Directors who shall manage

the affairs of the said Company for the first year of its existence.

Art. of Inc. of C. M. Ry. Co. embodying amendments.

Sixth. The principal office of the said Company shall be in the City of Colorado Springs, County of El Paso, Colorado, and the principal business of the Company shall be carried on in the Counties of El Paso, Park, Chaffee, Lake, Douglas, Pitkin, Eagle, Garfield, and Mesa, in Colorado.

Principal office and counties where principal business is carried on.

Seventh. The Directors shall have power to make such By-laws as they may deem proper for the management of the affairs of the Company.

Directors may make by-laws.

Eighth. Meetings of the Directors of said Company may be held beyond the limits of this State at such time and place as they may be called in pursuance of the By-laws of the Company.

Meetings of directors may be held beyond limits of State.

Ninth. The government of this Company and the management of its affairs shall be vested in the following officers, to wit, a President, Vice President, Secretary and Treasurer, and the Board of Directors.

Officers.

IN WITNESS WHEREOF we have hereunto set our hands and seals this 22nd day of November, 1883, and respectively prefixed our place of residence.

Attesting clause.

PHILADELPHIA,

JOHN EATON LE CONTE. [SEAL]

DENVER, COLORADO,

HENRY T. ROGERS. [SEAL]

DENVER, COLORADO,

JOHN H. LINCK. [SEAL]

RUSH CREEK, ELBERT COUNTY,

EDWIN W. EDWARDS. [SEAL]

COLORADO SPRINGS,

CHARLES A. LANSING. [SEAL]

Art. of Inc. of C. M.
Ry. Co. embodying
amendments.
Acknowledgments.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

On this 22nd day of November, A.D. 1883, before me personally at the City of Colorado Springs in the County of El Paso, State aforesaid, came the above named John Eaton La Conte, John H. Linck, Edwin W. Edwards and Chas. A. Lansing, who are known to me to be the same persons described in and who subscribed the preceding certificate, and they severally acknowledged the execution thereof each for his own act and deed for the uses and purposes therein mentioned.

WILLIAM H. GESELBRACHT,
[NOTARIAL SEAL] *Notary Public.*

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this 23rd day of November, A.D. 1883, at Denver, Colorado, before me, a Notary Public in and for said County of Arapahoe, personally appeared the above named Henry T. Rogers, to me personally known to be the same person who executed the foregoing Certificate of Incorporation, and acknowledged that he executed the same as his free and voluntary act for the uses and purposes therein set forth.

ROBERT H. McMANN,
[NOTARIAL SEAL] *Notary Public.*

Certificate of
President and
Secretary as to
adoption by the
stockholders of
foregoing articles as
amended.

We, Joseph F. Humphrey and Charles A. Lansing, who are respectively President and Secretary of The Colorado Midland Railway Company, do hereby certify that at a meeting of the Stockholders of said Company held at Colorado Springs, El Paso County, Colorado, on the 7th day of October 1884, and called in pursuance of a resolution of the Board of Directors for the purpose of considering a proposed increase of Capital Stock and other amendments to the Articles of Incorporation, the foregoing preamble and Articles were unanimously adopted and declared to be

the Articles of Incorporation of said Company, as amended; and we further certify that at said meeting of stockholders all of the stockholders of the said Company were present in person or represented by proxy.

Art. of Inc. of C. M.
Ry. Co. embodying
amendments.

JOS. F. HUMPHREY,
President.

Attest:

CHARLES A. LANSING,
[COMPANY'S SEAL] *Secretary.*

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

Affidavit of President
as to truth of fore-
going certificate.

On this 7th day of October 1884, before me, Henry Le B. Wills, a Notary Public Personally appeared the above named Joseph F. Humphrey, who, being by me first duly sworn, on his oath says that he is the President of the Colorado Midland Railway Company and that the foregoing certificate by him signed and the matters and things therein contained are true in substance and in fact.

HENRY LE B. WILLS,
[SEAL] *Notary Public.*

(INDORSED.)

ARTICLES OF INCORPORATION OF THE COLORADO MIDLAND
RAILWAY COMPANY, AS AMENDED.
DOMESTIC.

Indorsement on
foregoing articles
as to filing and
recording thereof.

FILED in the office of the Secretary of State, of the
State of Colorado, on the 9 day of Oct. A.D. 1884, at 5
o'clock, P.M.

Recorded in Book 10 Page 138.

MELVIN EDWARDS,
Secretary of State.

SECOND ADDITIONAL AMENDMENTS

TO

ARTICLES OF INCORPORATION

OF

**THE COLORADO MIDLAND RAILWAY
COMPANY**

FILED JULY 14, 1886.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Amendments filed
July 14, 1886.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Amendments to Articles of Incorporation of The Colorado Midland Railway Company which was filed in this Office the Fourteenth day of July A.D. 1886 at 4.50 o'clock P.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Thirteenth day of July A.D. 1892.

E. J. EATON,
Secretary of State.

**SECOND ADDITIONAL AMENDMENTS TO THE ARTICLES OF
INCORPORATION OF THE COLORADO MIDLAND RAIL-
WAY COMPANY.**

Meeting of
stockholders held
July 12, 1886.

At a special meeting of the Stockholders of The Colorado Midland Railway Company, held at Colorado Springs, El Paso County, Colorado, on the 12th day of July 1886, said meeting having been called pursuant to a resolution of the Board of Directors, for the purpose of considering, among other things, proposed amendments to the Articles

of Incorporation; at which meeting were present, in person or by proxy, all of the Stockholders of said Railway Company, the following amendments to the Articles of Incorporation of said Company, as amended at a meeting held on the 22nd day of April 1884, and at a meeting held on the 7th day of October 1884, were unanimously adopted:

ARTICLE SECOND of the original Articles of Incorporation, as amended at said meeting of April 22nd 1884, and at said meeting of October 7th 1884, was further amended by striking out, at the end of said last named amendment, the words — "With such branches as may be deemed necessary and desirable," and inserting in lieu thereof the following; "With a branch or extension from Aspen up Castle Creek to the Town of Ashcroft, and up the several branches of Castle Creek to the summit of Elk Mountain Range; also, a branch from a point on the main line near the junction of Roaring Fork Creek and Rock Creek, up Rock Creek to Robinson Lake, and thence up the several forks of Rock Creek to the source of each; also, a branch from a point near the junction of Rock Creek and Coal Creek up Coal Creek to Coal Basin; also, a branch beginning at a point near the junction of Rock Creek and Thompson Creek; up Thompson Creek to the forks thereof, thence up the North Fork of Thompson Creek to its source; also, from said forks, up the middle fork to its source; also, from the junction of the middle fork and the east or south Fork of Thompson creek, up the east or south fork to its source; also, a branch from a point on the main line near the junction of Roaring Fork Creek and Four Mile Creek, up Four Mile Creek to its source; also, a branch from a point on Four Mile Creek about Two Miles above its junction with Roaring Fork Creek, thence in a south easterly direction to the Valley of Edgerton Creek, thence up Edgerton Creek, to the divide between Edgerton Creek and North Thompson Creek, thence up North Thompson Creek to the Coal outcrop, thence around into the Valley of Middle Thompson Creek to the Coal outcrop, thence around into the valley of South Thompson Creek, and up South Thompson Creek to the divide between South

Second additional
amendments
to Art. of Inc. of
C. M. Ry. Co.

Adoption of
amendments.

Amendment of
Article Second of
original articles
authorizing additional
branches and
extensions.

Second additional
amendments to
Art. of Inc. of
C. M. Ry. Co.

Thompson Creek and Coal Creek, thence by the most feasible route to the Coal outcrop in Coal Basin; also, a branch from a point on the main line about Five Miles below the Town of Glenwood Springs on the Grand River, up Warm Springs Creek to the Coal outcrop; also, a branch from a point on the main line between the mouth of Elk Creek and the mouth of Rifle Creek, by the most feasible route, to the Town of Carbonate in Garfield County; also, a branch from some point on the main line, to the Town of Meeker; also such other extensions and branches as may be deemed necessary and desirable, and all spurs and sidetracks necessary to connect the main line of railway with coal mines, coking ovens, stone-quarries, smelters and other industrial or manufacturing works.

Certificate of
President and
Secretary of Ry. Co.
as to adoption of fore-
going amendments.

We, J. J. Hagerman and Charles A. Lansing who are respectively the President and Secretary of the Colorado Midland Railway Company, do hereby certify that at a meeting of the stockholders of said Company, held at Colorado Springs, El Paso County, Colorado, on the 12th day of July 1886, in pursuance of a resolution of the Board of Directors, for the purpose of considering proposed amendments to the Articles of Incorporation, the foregoing amendments, designating the line of route of certain proposed branch lines of railway, were unanimously adopted;

And we further certify, that at said meeting of stockholders all of the stockholders of the said Company were present in person, or represented by proxy.

J. J. HAGERMAN,
President.

[COMPANY'S SEAL]

Attest:

CHARLES A. LANSING,
Secretary.

Affidavit of President
as to truth of
foregoing certificate.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

On this Twelfth day of July before me A. S. Welch a Notary Public in and for said County, in said State, personally appeared the above named J. J. Hagerman, who

being by me first duly sworn on his oath says: That he is and was on the 12th day of July 1886, President of The Colorado Midland Railway Company; that the foregoing certificate by him signed and the matters and things therein contained are true in substance and in fact.

Second additional
amendments to
Art. of Inc. of
C. M. Ry. Co.

[SEAL]

A. S. WELCH,
Notary Public.

(INDORSED.)

THE COLORADO MIDLAND RAILWAY COMPANY.
SECOND AMENDMENT TO ARTICLES OF INCORPORATION.
DOMESTIC.

Indorsement as to
filing and recording
of foregoing
amendments.

FILED in the office of the Secretary of State, of the State of Colorado, on the 14 day of July, A.D. 1886, at 4.50 o'clock, P.M.

Recorded in Book 14 Page 500.

MELVIN EDWARDS,
Secretary of State.

THIRD ADDITIONAL AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
THE COLORADO MIDLAND RAILWAY
COMPANY

FILED SEPTEMBER 20, 1892.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Amendment filed
Sept. 20, 1892.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Third Additional Amendment to the Certificate of Incorporation of the Colorado Midland Railway Company which was filed in this Office the Twentieth day of September A.D. 1892 at 3 o'clock P.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Twentieth day of September A.D. 1892.

E. J. EATON,
Secretary of State.

THIRD ADDITIONAL AMENDMENT TO THE CERTIFICATE OF
INCORPORATION OF THE COLORADO MIDLAND RAIL-
WAY COMPANY.

Meeting of
stockholders held
Sept. 13, 1892.

At a special meeting of the Stockholders of the Colorado Midland Railway Company, held at the principal office of said Company, in Colorado Springs, El Paso County, Colorado, on the 13th day of September, 1892, by order of the

Board of Directors for the purpose of considering a proposed amendment to the Certificate of Incorporation of said Company, providing for the building of a branch road from the main line, to or near the towns of Cripple Creek and Fremont, El Paso County, Colorado at which meeting were present in person or by proxy, all of the stockholders of said Railway Company, the following amendment to the Certificate of Incorporation of said Company, as amended at meetings held on the 22d day of April, 1884, the 7th day of October, 1884 and the 12th day of July, 1886, was unanimously adopted, viz:

Article Second of the original Certificate of Incorporation, as amended at said meetings of April 22d, 1884, October 7th, 1884 and July 12th, 1886, was further amended by adding to said last named amendment the words "Also a branch from a point on the main line at or near Divide Station, in Section 6, Township 13 South, Range 69 West, El Paso County, Colorado; running thence in a southerly direction up the valley to Rule Creek, across the divide separating the waters of Rule Creek from the waters of Oil Creek; thence down the valley to the north fork of Oil Creek; thence across Oil Creek at a point in Section 13, Township 14 South, Range 70 West; thence in the same general direction, crossing Spring Creek at a point in Section 11, Township 15 South, Range 70 West; thence in a south-easterly direction to termini in or near the towns of Cripple Creek and Fremont. With all spurs and side tracks necessary or convenient to connect said branch line with mines stone quarries, smelters, mills or other industrial or manufacturing works."

We, Allen Manvel and E. W. Sells, who are respectively the President and Secretary of The Colorado Midland Railway Company, do hereby certify that at a meeting of the Stockholders of said Company, held at Colorado Springs, El Paso County, Colorado, on the 13th day of September, 1892, by order of the Board of Directors, for the purpose of considering a proposed amendment to the Certificate of Incorporation, the foregoing amendment,

Third additional
amendment to
Art. of Inc. of
C. M. Ry. Co.

Adoption of
amendment.

Amendment of
Article Second of
original articles
authorizing additional
branch to Cripple
Creek or Fremont.

Certificate of
President and
Secretary of Ry. Co.
as to adoption of fore-
going amendment.

Third additional
amendment to
Art. of Inc. of
C. M. Ry. Co.

designating the line of route of the proposed branch line of railway, was unanimously adopted:

And we further certify, that at said meeting of Stockholders all of the Stockholders of the said Company were present in person, or represented by proxy.

A. MANVEL,
President.

Attest:

E. W. SELLS,
Secretary.

(INDORSED.)

Indorsement as to
filing and recording
of foregoing
amendment.

THIRD ADDITIONAL AMENDMENT TO THE CERTIFICATE OF
INCORPORATION OF THE COLORADO MIDLAND RAIL-
WAY COMPANY.
DOMESTIC.

FILED in the office of the Secretary of State, of the State
of Colorado, on the 20 day of Sept. A.D. 1892, at 3
o'clock, P.M.

Recorded in Book Page .

E. J. EATON,
Secretary of State.

Fees \$1.50.

CAPITAL STOCK

OF

THE COLORADO MIDLAND RAILWAY
COMPANY.

The Capital Stock of The Colorado Midland Railway Company was fixed by its original Articles of Incorporation, filed on November 23d, 1883, at \$500,000. See *ante* page 534. Original capital stock
\$500,000.

By the Amendments to the Articles of Incorporation of the said Railway Company, filed on May 4th, 1884, the Capital Stock was increased from \$500,000 to \$2,500,000. See *ante*, page 538. Increase to \$2,500,000.

By the Additional Amendments to the Articles of Incorporation of the said Railway Company, filed on October 9th, 1884, the Capital Stock was further increased from \$2,500,000 to \$5,000,000. See *ante*, page 541. Increase to \$5,000,000

On October 27th, 1887, the Capital Stock of the said Railway Company was further increased by the stockholders of the said Company under the laws of the State of Colorado from \$5,000,000 to \$8,000,000. See the following pages. Increase to \$8,000,000.

CERTIFICATE

OF

INCREASE OF CAPITAL STOCK

OF

**THE COLORADO MIDLAND RAILWAY
COMPANY**

FROM FIVE MILLION DOLLARS TO EIGHT MILLION DOLLARS.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Increase of Capital Stock of The Colorado Midland Railway Company which was filed in this Office the Twenty-seventh day of October A.D. 1887 at 9 o'clock A.M., and admitted to record.

Certificate of
increase filed
Oct. 27, 1887.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Thirteenth day of July A.D. 1892.

E. J. EATON,
Secretary of State.

Certificate of
President and
Secretary of Ry. Co.
as to vote of
stockholders to
increase capital
stock.

I, J. J. Hagerman, President of The Colorado Midland Railway Company, do hereby certify that at a special meeting of said Company, held at its office, Colorado Springs, Colorado, August 17th, 1887, in pursuance of a notice duly given to each stockholder personally and by publication, stating that said meeting was called for the purpose of considering and voting upon a proposition to increase the Capital Stock of said Railway Company, there were represented in person and by proxy more than three-

fourths of all the Capital Stock of said Company, and that
 more than three-fourths of such Capital Stock voted in
 favor of the increase of the same by the issue of Thirty
 Thousand (30,000) additional shares of the par value of
 One Hundred (\$100.00) Dollars each.

Increase of
 capital stock of
 C. M. Ry. Co.

J. J. HAGERMAN,
 [COMPANY'S SEAL] *President.*

Attest:

CHARLES A. LANSING,
Secretary.

STATE OF COLORADO, }
 COUNTY OF EL PASO, } ss.

Affidavit of President
 of Ry. Co. as to
 truth of foregoing
 certificate.

J. J. Hagerman, being first duly sworn, on his oath says
 that he was on the 17th day of August, 1887, and still
 is the President of the Colorado Midland Railway Com-
 pany and is the person who signed the foregoing certificate
 as such President, and that the matters in said certificate
 set forth are true, to the best of his knowledge and belief.

FRANK O. WOOD,
 [SEAL] *Notary Public.*

(INDORSED.)

THE COLORADO MIDLAND RAILWAY COMPANY.
 CERTIFICATE OF INCREASE OF CAPITAL STOCK.
 DOMESTIC.

Indorsement as to
 filing and recording
 of foregoing
 certificate.

FILED in the office of the Secretary of State, of the
 State of Colorado, on the 27 day of Oct. A.D. 1887, at
 9 o'clock, A.M.

Recorded in Book 16 Page 202.

JAMES RICE,
Secretary of State.

CERTIFICATE
OF
FULL PAID CAPITAL STOCK
OF
THE COLORADO MIDLAND RAILWAY
COMPANY.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Following certificate
filed Feb. 13, 1888.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Full Paid Stock of The Colorado Midland Railway Company which was filed in this Office the Thirteenth day of February A.D. 1888 at 3 o'clock P.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Thirteenth day of July A.D. 1892.

E. J. EATON,
Secretary of State.

COLORADO SPRINGS, COLO., February 10, 1888.

Certificate of
President and
Directors of Ry. Co.
as to amount of
capital stock paid in.

The undersigned, J. J. Hagerman, President and Director, and D. B. Robinson, George C. Allen, Irving Howbert, Charles A. Lansing, J. A. Hayes Jr. and Henry T. Rogers, Directors, and constituting a majority of the Directors of The Colorado Midland Railway Company, do hereby certify that the entire amount of Capital Stock of The Colorado Midland Railway Company, being Eighty Thousand (80,000) shares, of the par value of One Hundred Dollars (\$100.00), has been paid in.

J. J. HAGERMAN,	<i>President & Director.</i>
G. C. ALLEN,	<i>Director.</i>
D. B. ROBINSON,	<i>Director.</i>
IRVING HOWBERT,	<i>Director.</i>
CHARLES A. LANSING,	<i>Director.</i>
J. A. HAYES JR.	<i>Director.</i>
HENRY T. ROGERS,	<i>Director.</i>

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

Certificate of full
paid capital stock of
C. M. Ry. Co.

On this Tenth day of February, A.D. 1888, before me, Lewis B. Johnson, a Notary Public within and for said County, personally appeared J. J. Hagerman, President and Director, and D. B. Robinson, George C. Allen, Irving Howbert, Charles A. Lansing, J. A. Hayes Jr. and Henry T. Rogers, Directors, each of them being personally known to me, and who, being by me first duly sworn, did depose and say, each for himself, that he is a Director of The Colorado Midland Railway Company, and that the above certificate signed by him, and the matters and things therein stated, are true, in substance and in fact.

Affidavit of President
and Directors of
Ry. Co. to truth of
foregoing certificate.

WITNESS my hand and Notarial seal this 10th day of February, A.D. 1888.

LEWIS B. JOHNSON,

[SEAL]

Notary Public.

My Notarial Commission Expires Nov. 12, 1891.

(INDORSED.)

THE COLORADO MIDLAND RAILWAY COMPANY.
CERTIFICATE OF FULL PAID STOCK.
DOMESTIC.

Indorsement as to
filing and recording
of foregoing
certificate.

FILED in the office of the Secretary of State, of the State of Colorado, on the 13 day of Feb., A.D. 1888, at 3 o'clock, P.M.

Recorded in Book 16 Page 453.

JAMES RICE,

Secretary of State.

ISSUES OF CAPITAL STOCK
OF
**THE COLORADO MIDLAND RAILWAY
COMPANY.**

DATE.	TO WHOM.	NO. OF SHARES.	PAR VALUE.	ISSUED FOR.
March 3, 1884,	C. A. Lansing,	1	\$100.00	Cash
	J. H. Linck,	1	100.00	"
	W. A. Bell,	1	100.00	"
	J. E. LeConte,	1	100.00	"
	E. W. Edwards,	1	100.00	"
	H. D. Fisher,	1	100.00	"
	H. T. Rogers,	1	100.00	"
May 2, 1884,	E. Stanley Perkins,	1	100.00	"
	Chas. Mathews, Jr.,	1	100.00	"
	J. F. Humphrey,	1	100.00	"
	Irving Howbert,	1	100.00	"
May 17, 1884,	Orlando Metcalf,	1	100.00	"
Sep. 15, 1884,	J. B. Wheeler,	1	100.00	"
June 9, 1885,	J. E. Pearson,	1	100.00	"
	J. J. Hagerman,	1	100.00	"
Oct. 5, 1885,	H. I. Higgins,	1	100.00	"
Jan. 28, 1886,	Col. Midland Con-			
	struction Co.,	30,000	3,000,000.00	Construction
Feb. 19, 1886,	Do.	2,500	250,000.00	"
June 8, 1886,	Do.	17,484	1,748,400.00	"
Sep. 26, 1887,	Do.	30,000	3,000,000.00	"
	TOTALS,	80,000	\$8,000,000.00	

ARTICLES OF INCORPORATION
OF
THE COLORADO MIDLAND CONSTRUCTION
COMPANY.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate of
Sec'y of State.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Incorporation of The Colorado Midland Construction Company, which was filed in this Office the Tenth day of July A.D. 1885 at 5 o'clock P.M., and admitted to record.

Articles filed
July 10, 1885.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Sixteenth day of November A.D. 1892.

E. J. EATON,
Secretary of State.

[SEAL]

ARTICLES OF INCORPORATION OF THE COLORADO MIDLAND
CONSTRUCTION COMPANY.

The undersigned, being desirous of forming a company under and by virtue of the provisions of Chapter 19 of the General Laws of the State of Colorado, entitled "Corporations," for the objects and purposes hereinafter set forth, do certify as follows:—

Co. to be formed
under Chap. 19 of
Gen'l Laws of
Colorado.

I.

The corporate name of the said company shall be "The Colorado Midland Construction Company."

Corporate name.

II.

The objects for which said company is formed are to construct and equip, ready for operation, those portions of

Corporate purposes
and powers.

**Art. of Inc. C. M.
Construction Co.**

the railway and telegraph line of the Colorado Midland Railway Company, lying between the City of Colorado Springs and the City of Leadville, and between the City of Leadville and the mouth of Elk Creek on the Grand River, and between a point near the confluence of Roaring Fork Creek and Frying Pan Creek and the town of Aspen; also to procure rights of way, depot grounds and other lands necessary for the use or operation of said railway line; also to erect depot buildings, machine shops, round houses and other buildings therefor, and to do all acts pertaining to the locating, constructing, equipping and furnishing of said line of railway and telegraph between said points and of any sidings, turn-outs or subsidiary lines therefor.

III.

Capital stock.

The capital stock of said company shall be fifty thousand (50,000) dollars, to be divided into five hundred (500) shares of one hundred dollars each.

IV.

Directors.

The number of directors of the said company shall be three (3) and H. D. Fisher, Irving Howbert and Henry T. Rogers are hereby designated as the directors, who shall manage the affairs of the said company for the first year of its existence.

V.

**Principal office and
counties where
principal business is
to be carried on.**

The principal office of the said company shall be in the City of Colorado Springs, County of El Paso, Colorado, and the principal business of said company shall be carried on in the counties of El Paso, Park, Lake, Pitkin, Eagle, Garfield and Mesa, in Colorado.

VI.

**Directors may
make by-laws.**

The directors shall have power to make such by-laws, not inconsistent with the laws of this state, as they may deem proper for the management of the affairs of said company.

VII.

Meetings of the directors of said company may be held beyond the limits of this state, at such time and place as they may be called, in pursuance of the by-laws of the company.

Art. of Inc. C. M.
Construction Co.

Directors' meetings
may be held outside
of State.

VIII.

The government of said company and the management of its affairs shall be vested in the following officers, to wit:— A president, vice president, secretary and treasurer, and the board of directors.

Officers.

IX.

The term of the corporate existence of said company shall be five years from the date of the filing of this certificate.

Term of corporate
existence.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this sixth day of July, A.D. 1885, and prefixed our respective places of residence.

Attesting clause.

COLORADO SPRINGS COLO.

MATTHEW KENNEDY. [SEAL]

COLORADO SPRINGS COLO.

HENRY LE B. WILLS. [SEAL]

COLORADO SPRINGS COLO.

H. D. FISHER. [SEAL]

COLORADO SPRINGS COLO.

IRVING HOWBERT. [SEAL]

DENVER COLO.

HENRY T. ROGERS. [SEAL]

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

Acknowledgments.

On this sixth day of July, 1885, before me, William Wade Beebe a Notary Public in and for said county, personally appeared the above named Matthew Kennedy, Henry Le B. Wills, H. D. Fisher and Irving Howbert, to me personally known to be the same persons who executed

The C. M. Ry. Co.

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**Art. of Inc. C. M.
Construction Co.**

the foregoing certificate of incorporation, and acknowledged, each for himself, that he executed the same as his free and voluntary act, for the uses and purposes therein set forth.

Acknowledgments.

[SEAL]

WM. WADE BEEBE,
Notary Public, El Paso Co. Colo.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this seventh day of July, 1885, before me Albert Smith a Notary Public in and for said county, personally appeared the above named Henry T. Rogers, to me personally known to be the same person who executed the foregoing certificate of incorporation, and acknowledged that he executed the same as his free and voluntary act, for the uses and purposes therein set forth.

[SEAL]

ALBERT SMITH,
Notary Public.

**Endorsement as
to filing and recording
of foregoing articles.**

ENDORSED.

THE COLORADO MIDLAND CONSTRUCTION COMPANY.
CERTIFICATE OF INCORPORATION.
DOMESTIC.

FILED in the office of the Secretary of State, of the State of Colorado, on the 10 day of July, A.D. 1885, at 5 o'clock, P.M.

Recorded in Book 10 Page 597.

MELVIN EDWARDS,
Secretary of State.

CONSTRUCTION

OF THE ROAD OF

THE COLORADO MIDLAND RAILWAY COMPANY.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE COLORADO MIDLAND RAILWAY COMPANY, HELD ON MAY 8TH, 1886.

C. M. Ry. Co.
Directors' Meeting
May 8, 1886.

The Secretary read a communication from the Colorado Midland Construction Co. asking for a readjustment of their contract with this Company.

Mr. Metcalf offered the following resolution:

Resolution offered.

WHEREAS The Colorado Midland Construction Company has demanded of this Company that it be released from its obligations under the contract of January 28th, 1886 to furnish rails and other iron, timber, ties and rolling stock, or that it receives increased compensation therefor; and

Recitals.

WHEREAS such demand is based in part upon the claim that this Company has failed to carry out its agreement to secure for said Construction Company certain rates of freight upon said iron and other material from Chicago and the Missouri River to Leadville; and

WHEREAS it is true that this Company has not been able to secure such rate of freight between said points as it had assured said Construction Company it would be able to secure for it; THEREFORE

RESOLVED, that in the opinion of this Board the demand of said Construction Company is under the circumstances reasonable.

Resolve that
demand of
Construction Co.
is reasonable.

RESOLVED that the Executive Committee be and are hereby authorized to agree with said Construction Company upon such changes in or modifications of said contract either by increase of compensation or otherwise as said

Resolve that
Ex. Com. are
authorized to agree
to modification of
contract with said Co.

Committee may deem proper and right. The action of said Committee therein to be however subject to the approval of this Board. The resolution was adopted.

**C. M. Ry. Co.
Directors' Meeting
June 7, 1886.**

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE COLORADO MIDLAND RAILWAY COMPANY, HELD ON JUNE 7TH, 1886.

Report of Ex. Com.

The Executive Committee through its Chairman made the following report:

Under the authority given this Committee by resolution of the Board on May 8th, 1886, we have agreed with the Construction Company, subject to the approval of this Board upon a new contract to take the place of the contract of Jan. 28th, 1886.

The essential features of the contract are as follows:

**Terms of proposed
contract with
Construction Co.**

The Construction Company is to do all the grading and masonry between Leadville and Glenwood Springs, and between the mouth of Frying Pan Creek and Aspen, in consideration of the payment by the Railroad Company of \$3,000,000 par value of its full paid capital stock, and \$340,595 in money, the work to be done in accordance with the specifications accompanying the former contract and to the satisfaction of your Executive Committee.

The Construction company to be released from its obligation to perform any other work or to furnish any other material for said portion of the Railway Company's line.

The Construction Company is to assign the Railway Company its Bond Subscription which the Railway Company is to carry out according to its terms.

The Railway Company to refund to the Construction Company the money disbursed by it or for which it may have become liable in connection with the procuring right of way, engineering and other matters not pertaining to the work to be done by the Construction Company under the proposed new contract.

Your Committee also report that the Construction Company has made a proposition to do the grading and masonry upon the line of road of the Railway Company as located

between Colorado Springs and Leadville via Weston Pass for \$1,998,400 par value of the full paid stock of the Railway Company, being \$1,748,400 in addition to the amount already received by the Construction Company, and \$575,040 in money, provided the Railway Company will release the Construction Company from its obligation to pay the certificates of indebtedness of the Railway Company which were outstanding on Jan. 28th, 1886.

C. M. Ry. Co.
Directors' Meeting
June 7, 1886.

This proposition your Committee considers favorable to the Railway Company, and recommend it to be accepted.

Recommendations
of Executive Com-
mittee.

A draft of contract which provides for the work of grading and masonry on the entire line has been prepared and is herewith submitted.

In the event that our action and recommendation as aforesaid should be approved, we would further recommend that the entire work be provided for in one contract.

Mr. Humphrey moved that the report be approved. Carried.

Report approved.

A draft of the proposed new contract with the Colorado Midland Construction Company was read. After a general discussion upon the same, Mr. Higgins offered the following resolution:

Draft of proposed
contract read.

RESOLVED that the draft of the proposed contract with the Colorado Midland Construction Company for the work of grading and masonry on the entire line between Colorado Springs and Glenwood Springs and between the mouth of Frying Pan Creek and Aspen, this day submitted by the Executive Committee, be approved, and that the President and Secretary be and they are hereby authorized to execute the same on behalf of the Railway Company.

Contract approved
and its execution
authorized.

The Resolution was adopted.

For contract with Colorado Midland Construction Co. authorized by the foregoing votes, see next page.

AGREEMENT

BETWEEN

THE COLORADO MIDLAND CONSTRUCTION CO.

AND

THE COLORADO MIDLAND RAILWAY CO.

DATED JUNE 1, 1886, FOR THE GRADING AND MASONRY REQUIRED
IN THE CONSTRUCTION OF THE ROAD OF THE SAID RAILWAY
COMPANY BETWEEN CERTAIN POINTS.

June 1, 1886.

THIS AGREEMENT, made and entered into this first day of June, 1886, by and between THE COLORADO MIDLAND CONSTRUCTION COMPANY, party of the first part, known throughout this agreement as "THE CONSTRUCTION COMPANY," and THE COLORADO MIDLAND RAILWAY COMPANY, party of the second part, known throughout this agreement as "THE RAILWAY COMPANY," each of said Companies being a corporation organized and existing under and by virtue of the laws of the State of Colorado, WITNESSETH;

ARTICLE 1: That for and in consideration of the payments and covenants hereinafter mentioned, to be made and performed by THE RAILWAY COMPANY, THE CONSTRUCTION COMPANY does hereby covenant and agree as follows

(1) To construct and finish, in a substantial and workmanlike manner, all the graduation and masonry, and such other work connected therewith as may be necessary to be done upon the line of the railway of the RAILWAY COMPANY, lying between a point in the city of Colorado Springs El Paso County, where any of the depot buildings or station-houses of the RAILWAY COMPANY may be located, and the point of location of any depot buildings or station-houses of THE RAILWAY COMPANY in the city of Leadville Lake County: also between said point of location in the city of Leadville and a point opposite the Town of Glen-

wood Springs, Garfield County; also between a point near the confluence of Roaring Fork Creek and Frying Pan Creek and the point of location of any depot buildings or station-houses of THE RAILWAY COMPANY in the Town of Aspen, Pitkin County; together with all sidings and turnouts required therefor, the same to be of standard gauge, and being about Two Hundred and Fifty miles of main railway, sidings and turnouts.

Agreement between
C. M. Construction
Co. and C. M. Ry. Co.

(2) To perform all of said work and labor in accordance with the specifications hereto attached, and made part and parcel of this agreement, and agreeably to the plans furnished and directions given by THE RAILWAY COMPANY, or its agents for the time being, in charge of the work, and to the satisfaction and acceptance of the Executive Committee of the Board of Directors of THE RAILWAY COMPANY.

(3) To complete all of said work on or before the first day of June 1887.

ARTICLE 2: In consideration whereof, and of the further undertakings on the part of THE CONSTRUCTION COMPANY hereinafter set forth, THE RAILWAY COMPANY hereby agrees that it shall and will, well and truly pay, or cause to be paid, to the CONSTRUCTION COMPANY a certificate or certificates of the capital stock of THE RAILWAY COMPANY, full paid, to the amount of Four Million, Nine Hundred and Ninety Eight Thousand, Four Hundred Dollars (\$4,998,400), the receipt whereof is hereby acknowledged; also the sum of Nine Hundred and Fifteen Thousand Six Hundred and Thirty Five (\$915,635) less the amount theretofore expended by THE RAILWAY COMPANY under construction work, between Colorado Springs and Leadville, in lawful money of the United States, payable as follows:—

On estimates made by the Engineer of the RAILWAY COMPANY for the time being in charge, showing the amount of work done by THE CONSTRUCTION COMPANY during the preceding month. The amount of such estimates shall be paid on or before the Fifteenth day of the month next after such work shall be done, less ten per cent. of such amount, which shall be retained by THE RAILWAY COMPANY, until

Agreement between
C. M. Construction
Co. and C. M. Ry. Co.

the final completion of the work to be done hereunder, as security for the faithful performance of this contract on the part of THE CONSTRUCTION COMPANY,

PROVIDED, HOWEVER, that no part of the money consideration to be paid THE CONSTRUCTION COMPANY hereunder, shall be paid, until the amount of work done by THE CONSTRUCTION COMPANY under the terms of this contract as shown by the estimates approved by the Chief Engineer, or Engineer in charge, of THE RAILWAY COMPANY, shall amount to the sum of One Million, Six Hundred Thousand Dollars (\$1,600,000).

ARTICLE 3: And it is further agreed that in determining the amount and character of the work of graduation, including all tunnel work, to be done under this contract, reference shall be had to the profiles of such work heretofore made by Thomas H. Wigglesworth, and delivered to THE CONSTRUCTION COMPANY by THE RAILWAY COMPANY, as well [as] to the specifications hereto attached: and said profiles are hereby declared to be part and parcel of this agreement.

ARTICLE 4: And it is further agreed that in case THE CONSTRUCTION COMPANY shall not, well and truly, from time to time, comply with and perform all terms hereinbefore stated and stipulated on its part, in the manner and form, and within the time hereinbefore mentioned, or in case it shall appear to the Executive Committee of THE RAILWAY COMPANY that the work is not progressing with sufficient speed or in a proper manner, or in case of any interference with said work by legal proceedings, instituted against THE CONSTRUCTION COMPANY, by other parties than THE RAILWAY COMPANY, then, and in such case, said Executive Committee shall have power with the approval of the Board of Directors of THE RAILWAY COMPANY, but not otherwise, to annul this agreement, by serving a notice in writing to that effect, upon the President or any other general officer of THE CONSTRUCTION COMPANY: and upon the serving of such notice as aforesaid, this agreement and every clause and condition thereof shall terminate. All right of occupancy by THE CON-

STRUCTION COMPANY in or upon the lands or property of THE RAILWAY COMPANY, and all the right whatever of the said CONSTRUCTION COMPANY in and to any further prosecution of, or interest in, the work, shall forthwith cease and determine upon notice, as aforesaid, and THE RAILWAY COMPANY may contract anew for the work remaining to be done, or may employ any other person to do and complete the work herein mentioned, or so much of it as may remain unfinished, as though this agreement had never been made.

Agreement between
C. M. Construction
Co. and C. M. Ry. Co.

ARTICLE 5: It is further agreed that if at any time during the progress of the work to be done under the provisions of this contract, such work, or any part thereof, shall be stopped, interrupted [*sic*] with by any injunction or order of any court against THE RAILWAY COMPANY, then, and in such event, THE RAILWAY COMPANY shall have the right to at once suspend the execution of or to annul this agreement: And such suspension or annulment shall not give to the CONSTRUCTION COMPANY any right to or claim for damages against THE RAILWAY COMPANY, and upon the payment to THE CONSTRUCTION COMPANY, of the amount found to be due it, and at the time of such suspension, by the award of the arbitrators, as hereinafter provided, such CONSTRUCTION COMPANY shall execute and deliver to THE RAILWAY COMPANY a receipt in full of all claims whatsoever against THE RAILWAY COMPANY.

ARTICLE 6: And it is further agreed, that in case this contract shall be terminated by the mutual agreement of the parties, or by the failure of THE CONSTRUCTION COMPANY to comply with the terms of, or to complete the same, or by the exercise on the part of THE RAILWAY COMPANY of the power hereinbefore given it, to annul the same, or in any manner whatsoever, then the determination of the amount, which THE CONSTRUCTION COMPANY shall receive or shall retain for the work performed or material furnished, or indebtedness incurred by it under this contract, up to the time of the termination thereof, as aforesaid, in case the parties cannot agree as to such amount, shall be submitted to three persons, one of whom shall be selected by THE RAILWAY COMPANY, one by THE CONSTRUCTION

Agreement between
C. M. Construction
Co. and C. M. Ry. Co.

COMPANY and the third by these two, with such books, papers and other evidence as they may require, and after due consideration and decision by such arbitrators their award, or the award of a majority of them, as to all subjects of disagreement submitted to them, shall be final and shall be binding upon, and observed and performed by each of the parties hereto: And in case the amount of such award for work done or material furnished, by THE CONSTRUCTION COMPANY, under the terms of this contract, at the time the same may be determined, as aforesaid, shall be less than the amount theretofore received by THE CONSTRUCTION COMPANY, from THE RAILWAY COMPANY, then and in such event, THE CONSTRUCTION COMPANY shall pay over and refund to THE RAILWAY COMPANY the excess above the amount of such award, either in shares of the capital stock of THE RAILWAY COMPANY, or in money; it being, however, expressly agreed that in case THE CONSTRUCTION COMPANY shall have, at the time of the making of such award, disposed of the shares of the capital stock of THE RAILWAY COMPANY received by it hereunder, the amount received by THE CONSTRUCTION COMPANY for such shares shall be conclusive upon THE RAILWAY COMPANY and upon the arbitrators, as to the value of the same, for the purposes intended and contemplated by this article of agreement.

ARTICLE 7: And it is further agreed that THE CONSTRUCTION COMPANY shall not enter into any contract for the performance of any work or labor, or the furnishing of any material, required by the terms of this [*sic*] involving the expenditure of the sum of Five Thousand Dollars (\$5,000) or more, without first obtaining the written consent of a majority of the Executive Committee of THE RAILWAY COMPANY to the making of such contract: Also, that the salaries which THE CONSTRUCTION COMPANY MAY AGREE to pay to any of its general officers, its general manager or superintendent shall be approved by said Executive Committee, and the books of account, vouchers and other papers, of THE CONSTRUCTION COMPANY shall be at all times open to the inspection of said committee.

ARTICLE 8: And THE CONSTRUCTION COMPANY hereby further covenants and agrees, to and with the RAILWAY COMPANY THAT in case it should be determined by the Executive Committee of THE RAILWAY COMPANY to construct any further earthworks, bridges, culverts, drains, walls or other works, not now contemplated or herein enumerated, upon or pertaining to the said line of railway, or any part thereof or to perform any other extra work, or to provide any extra material, not embraced under the terms of this contract nor included in the specifications, that THE CONSTRUCTION COMPANY will perform, construct and complete the same, as though the said work had been specifically set out herein, and for such prices as may be agreed upon, and otherwise, upon the terms and conditions hereinbefore stipulated except with regard to the time of completing the same, which it is hereby agreed will be in that case reasonable [*sic*] extended at the discretion of the Executive Committee of THE RAILWAY COMPANY, when the new limit, fixed by it, shall have the same effect as though it were inserted in this agreement. Such extra work, material or equipment to be paid for, at such rate and in such manner, as may be hereafter agreed upon between the parties hereto.

Agreement between
C. M. Construction
Co. and C. M. Ry. Co.

ARTICLE 9: And it is further agreed and understood, that a certain contract entered into, by and between the parties hereto, on the 28th day of January 1886, and providing for the construction and equipment by THE CONSTRUCTION COMPANY of a certain portion of the line of road of THE RAILWAY COMPANY shall be, and the same is hereby declared null and void and of no further force or effect, excepting in so far as the terms and conditions of the said contract of January 28th 1886, are reinstalled and contained in this contract. And since under the said contract of January 28th, 1886 THE CONSTRUCTION COMPANY has expended a large amount of money for office, travelling, engineering and other expenses incident to the carrying out of the terms and conditions of said contract, and which amount it will be entitled to have refunded to it under the terms of this contract.

Agreement between
C. M. Construction
Co. and C. M. Ry. Co.

IT IS, THEREFORE, HEREBY FURTHER AGREED, that the determination of the amount which THE CONSTRUCTION COMPANY is entitled to have refunded to it, on account of such expense and disbursements, shall be left to H. D. Fisher, President of the CONSTRUCTION COMPANY and Orlando Metcalf, member of the Executive Committee of THE RAILWAY COMPANY. And in case they shall be unable to agree upon such amount, then the final determination thereof, shall be submitted to John S. McNeil of Denver as arbitrator, and the amount awarded by him shall be conclusive and binding and upon both parties; the amount of such award shall be furnished to each of said parties in the writing by John S. McNeil, and thereupon THE RAILWAY COMPANY shall pay the same to THE CONSTRUCTION COMPANY.

ARTICLE 10: It is further agreed that in case any disagreement or dispute shall arise between the parties hereto as to the proper construction of any of the conditions of this contract, or as to any other matter connected therewith for the determination of which no provision has hereinbefore been made, the same shall be decided by arbitration in the manner provided in Article Sixth.

IN WITNESS WHEREOF, the said THE COLORADO MIDLAND CONSTRUCTION COMPANY, and the said THE COLORADO MIDLAND RAILWAY COMPANY has respectively caused their corporate seals to be hereunto affixed and these presents to be signed and attested by their respective Presidents and Secretaries, the day and year first above written.

THE COLORADO MIDLAND CONSTRUCTION COMPANY.

By H. D. FISHER,
President.

Attest:

F. W. HARTLEY,
Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

By J. J. HAGERMAN,
President.

Attest:

CHAS. A. LANSING.
Secretary.

AGREEMENT

BETWEEN

THE COLORADO MIDLAND CONSTRUCTION CO.

AND

THE COLORADO MIDLAND RAILWAY CO.

DATED JUNE 24, 1887, FOR ADDITIONAL GRADING AND MASONRY
UPON CERTAIN PORTIONS OF THE ROAD OF SAID RAILWAY
COMPANY, AND TO FURNISH CERTAIN ROLLING
STOCK, AND TO DISCHARGE CERTAIN NOTES.

THIS AGREEMENT, made and entered into this ^{June 24, 1887.} twenty-fourth day of June, 1887, by and between THE COLORADO MIDLAND CONSTRUCTION COMPANY, hereinafter known as the Construction Company, party of the first part, and THE COLORADO MIDLAND RAILWAY COMPANY, hereinafter known as the Railway Company, party of the second part, each of said parties being a corporation organized and existing under the Laws of the State of Colorado; WITNESSETH;

THAT, WHEREAS, by the contract between the said parties, dated the first day of June, 1886, it was, among other things, provided that in case the Railway Company should determine to construct any further earthworks, bridges, culverts, or other works not then contemplated, nor in said contract of June 1st, 1886, enumerated, or to perform other extra work, or provide any extra material or equipment not embraced under the terms of said contract of June 1st, 1886, then, and in such event, the Construction Company should perform, furnish, construct and complete the same as though such work had been specifically set out in said contract, and that the same should be paid for at such rate, and in such manner as might thereafter be agreed upon between the said parties; and

Supplemental
agreement between
C. M. Construction
Co. and C. M. Ry. Co.

WHEREAS, the Railway Company has elected to avail itself of the right and privilege given it under, and by the terms of said contract, viz.; to require the Construction Company to do additional work, and to furnish certain equipment; and

WHEREAS, in pursuance and in execution of the said provisions of said contract of June 1st, 1886, the Construction Company has performed all the extra graduation and masonry occasioned by the change of the line of the road of the Railway Company between a point near Hartzel's Hot Springs and Leadville, from the contemplated line via Weston Pass to the present line via Hill Top, and has also performed a large amount of extra work, in increasing the widths of cuts, the slope of banks, and otherwise, and is about to perform additional extra work in completing the graduation and masonry of the road of the Railway Company, and is about to furnish a large amount of equipment for the Railway Company;

NOW, THEREFORE, in consideration of the premises, and of the payments and covenants hereinafter to be made and performed by the Railway Company, the Construction Company does hereby covenant and agree with the Railway Company as follows;

FIRST.—To complete in a substantial and workmanlike manner, the graduation and masonry of the road of the Railway Company on the Third Division of said road from Section 103 to the City of Leadville, and on the whole of the fourth Division of said road.

SECOND.—To perform said work and labor under the direction of the Chief Engineer of the Railway Company, and in accordance with specifications furnished by him, and to the satisfaction and acceptance of the Executive Committee of the Railway Company.

THIRD.—To complete all of said work on or before the first day of October, 1887.

FOURTH.—To furnish to the Railway Company the following rolling stock:—

(a) Six (6) Consolidation Engines; Eight (8) Ten Wheel Engines, Three-(3)-eight-wheel engines, and One

(1) Switch Engine, each and all of said engines to be built by the Schenectady Locomotive Works, in accordance with the terms and provisions of the several contracts heretofore entered into between said Locomotive works and the Railway Company.

Supplemental
agreement between
C. M. Construction
Co. and C. M. Ry. Co.

(b) Two hundred and ten (210) flat cars, One hundred and seventy-five (175) box cars, One hundred (100) coal cars, Twenty-five (25) stock cars, and Six (6) caboose cars, each and all of said Flat, Box, Coal, Stock and Caboose Cars to be built in accordance with the terms and provisions of the several contracts heretofore entered into between the Railway Company and the St. Charles Car Works, and between the Railway Company and the Barney and Smith Manufacturing Company.

(c) Twenty-two (22) Passenger Coaches, One (1) Combination Passenger and Baggage Coach, Six (6) Baggage Cars, Six (6) Express Cars, and Two (2) Suburban Cars, each and all of said Passenger, Baggage, Express and Suburban Cars, to be built in accordance with the terms and provisions of the several contracts heretofore entered into between the Railway Company and the Pullman Palace Car Company.

All of said Rolling Stock to be delivered by the Construction Company upon the grounds of the Railway Company, in the City of Colorado Springs, on or before the first day of October, 1887, and to be constructed in strict conformity to, and compliance with, the specifications and conditions of the several contracts between the Railway Company and the above named Rolling Stock Companies, which said contracts are set forth in the schedule hereto attached, marked "Schedule A," and all interest in which said contracts is hereby assigned by the Railway Company to the Construction Company. And said rolling stock shall also be constructed to the satisfaction and acceptance of the Superintendent of Machinery of the Railway Company; and

WHEREAS, certain parties acting in the interest and at the request of the Railway Company, have heretofore advanced, upon the notes of the Railway Company, the

Supplemental
agreement between
C. M. Construction
Co. and C. M. Ry. Co.

sum of One hundred thousand dollars (\$100,000), and the First National Bank of Colorado Springs has advanced upon open account, at the request of the Railway Company, the sum of Sixty-four thousand and fifteen and $\frac{43}{100}$ dollars (\$64,015.43), which has been paid to the different Rolling Stock and Manufacturing Companies above named on account of rolling stock furnished by them, and which is part of the rolling stock above mentioned;

NOW, THEREFORE, the Construction Company hereby agrees, as a part of the consideration to be paid to the Railway Company hereunder, to pay and discharge the said notes, and the said open account, to the said amount of One hundred and sixty-four thousand and fifteen and $\frac{43}{100}$ dollars (\$164,015.43), together with any interest now due, or which may hereafter become due thereon, and to wholly relieve the Railway Company from any and all liability on account thereof.

FIFTH.—In consideration whereof, and of the further undertakings and agreements on the part of the Construction Company hereinafter set forth the Railway Company agrees that in addition to the payments heretofore made to the Construction Company, it will pay, or cause to be paid to it, a Certificate or Certificates of the Capital Stock of the Railway Company, full paid, to the amount of Three Million (\$3,000,000) dollars. Also, the sum of Two hundred and thirty thousand (\$230,000) dollars, payable as follows; Said stock on or before the first day of October, 1887, the sum of One hundred and fifty thousand (\$150,000) dollars on or before the first day of August, 1887, and the further sum of Eighty thousand (\$80,000) dollars on or before the 1st day of Oct. 1887, provided, however, that said final payment of \$80,000 shall not be due and payable until the completion and acceptance by the Railway Company, of all the work to be done, and material to be furnished, by the Construction Company under this contract.

SIXTH.—It is further agreed that any and all moneys due, or to become due the Construction Company upon any

sale or contract for sale, of the Capital Stock to be paid it by the Railway Company hereunder, shall be paid to Frederick D. Tappen, of New York, as Trustee, and shall be disbursed by him only upon the written demand of the President of the Construction Company, approved by the President of the Railway Company.

Supplemental
agreement between
C. M. Construction
Co. and C. M. Ry. Co.

SEVENTH.—And it is further agreed that in case the Construction Company shall not, well and truly from time to time, comply with and perform all the terms hereinbefore stated and stipulated on its part, in the manner and form, and within the time hereinbefore mentioned, or in case it shall appear to the Executive Committee of the Railway Company that the work is not progressing with sufficient speed, or in a proper manner, or in case of interference of said work by legal proceedings instituted against the Construction Company by other parties than the Railway Company, then, and in such case, said Executive Committee shall have power (with the approval of the Board of Directors of the Railway Company but not otherwise) to annul this agreement by serving notice in writing to that effect upon the President, or any other general officer of the Construction Company; and upon the serving of such notice as aforesaid, this agreement and every clause and condition thereof, shall terminate. All right of occupancy by the Construction Company, in or upon the lands or property of the Railway Company, and all the rights whatever of said Construction Company in and to any further prosecution of, or interest in, the work and material shall forthwith cease and determine upon notice, as aforesaid, and the Railway Company may contract anew for the work and material remaining to be done, or furnished, or may employ any other person or persons to do or complete the work herein mentioned, or as much of it as may remain unfinished, as though this agreement had never been made.

EIGHTH.—And it is further agreed that in case this contract shall be terminated by the mutual agreement of the parties, or by the failure of the Construction Company to comply with the terms of, or to complete the same, or

Supplemental
agreement between
C. M. Construction
Co. and C. M. Ry. Co.

by the exercise on the part of the Railway Company of the power hereinbefore given it, to annul the same, or in any manner whatsoever, then the determination of the amount which the Construction Company shall receive or shall retain for the work performed or material furnished, or indebtedness incurred by it under this contract, up to the time of the termination thereof, as aforesaid, in case the parties cannot agree as to such amount, shall be submitted to three persons, one of whom shall be selected by the Railway Company, one by the Construction Company, and the third by these two, with such books, papers, and other evidence as they may require, and after due consideration and decision by such arbitrators, their award, or the award of a majority of them, as to all subjects of disagreement submitted to them, shall be final, and shall be binding upon, and be observed and performed by each of the parties hereto. And in case the amount agreed upon between the parties, or the amount of such award for work done or material furnished by the Construction Company, under the terms of this contract, at the time the same may be determined, as aforesaid, shall be less than the amount theretofore received by the Construction Company from the Railway Company, then, and in such event, the Construction Company shall pay over and refund to the Railway Company the excess above the amount as agreed upon, or above the amount of such award, either in shares of the Capital Stock of the Railway Company, or in money; it being, however, expressly agreed, that in case the Construction Company shall have, at the time of the reaching of such agreement, or the making of such award, disposed of the shares of the Capital Stock of the Railway Company received by it hereunder, the amount received by the Construction Company for such shares shall be conclusive upon the Railway Company, and upon the arbitrators, as to the value of the same, for the purposes intended and contemplated by this article of this agreement.

NINTH.—It is further agreed that in case any disagreement or dispute shall arise between the parties hereto, as to the proper construction of any of the conditions of this

contract, or as to any other matter connected therewith, for the determination of which no provision has hereinbefore been made, the same shall be decided by arbitration in the manner provided in Paragraph Eight.

Supplemental
agreement between
C. M. Construction
Co. and C. M. Ry. Co.

IN WITNESS WHEREOF, the said Colorado Midland Construction Company, and the said Colorado Midland Railway Company, have respectively caused their corporate seals to be hereunto affixed, and these presents to be signed and attested by their respective Presidents and Secretaries the day and year first above written.

THE COLORADO MIDLAND CONSTRUCTION COMPANY.

By H. D. FISHER,

[SEAL]

President.

Attest:

F. W. HARTLEY,

Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

By J. J. HAGERMAN,

[SEAL]

President.

Attest:

CHAS. A. LANSING,

Secretary.

Schedule "A."

1. Contract with Schenectady Locomotive Works, dated October 16th, 1886, for Fourteen (14) Consolidated Locomotive Engines.

2. Contract with Schenectady Locomotive Works, dated October 16th, 1886, for Eight (8) Ten Wheel Locomotive Engines.

3. Contract with Schenectady Locomotive Works, by letter dated for Three (3) Switch Engines.

4. Contract with Schenectady Locomotive Works, by letter dated for three (3) 8 Wheel Locomotive Engines.

Supplemental
agreement between
C. M. Construction
Co. and C. M. Ry. Co.

5. Contract with St. Charles Car Company, dated October 25th, 1886, for One hundred and twenty-five (125) Flat Cars.

6. Contract with St. Charles Car Company, dated October 22nd, 1886, for One hundred and twenty-five (125) Box Cars, and Four (4) Caboose Cars.

7. Contract with St. Charles Car Company, dated January 14th, 1887, for Fifty (50) Box Cars, One hundred (100) Flat Cars, One hundred (100) Coal Cars, Twenty-five (25) Stock Cars, and Six (6) Caboose Cars.

8. Contract with St. Charles Car Company, dated May 3rd, 1887, for Six (6) Caboose Cars.

9. Contract with Barney & Smith Manufacturing Company, dated November 12th, 1886, for Fifty (50) Flat Cars, and One hundred and fifty (150) Box Cars.

10. Contract with Pullman Palace Car Company, dated December 23rd, 1886, for Twelve (12) First-class Passenger Cars, Ten (10) Second-class Passenger Cars, One (1) Combination Car, Six (6) Baggage Cars and Six (6) Express Cars.

11. Contract with Pullman Palace Car Company, dated February 7th, 1887, for One (1) Passenger Coach, plan No. 385, and One (1) Combination Coach, plan No. 386.

AGREEMENT OF SETTLEMENT

BETWEEN

THE COLORADO MIDLAND RAILWAY CO.

AND

THE COLORADO MIDLAND CONSTRUCTION CO.

DATED DECEMBER 31, 1887.

MEMORANDUM OF AGREEMENT OF SETTLEMENT MADE THIS Dec. 31, 1887.
THIRTY-FIRST DAY OF DECEMBER A.D. 1887, BY AND BETWEEN THE COLORADO MIDLAND RAILWAY COMPANY OF THE ONE PART, AND THE COLORADO MIDLAND CONSTRUCTION COMPANY OF THE OTHER PART,

WITNESSETH:

WHEREAS, said Construction Company has heretofore, under the provisions of certain contracts made by it with said Railway Company, dated respectively, January 28th, 1886, June 1st, 1886, and June 24th, 1887, performed a large amount of labor, consisting of graduation and masonry, in the construction of the railroad of said Railway Company; and has, also under the provisions of said contract of June 24th, 1887, paid a large sum of money on account of rolling stock and equipment for said Railway Company; and,

WHEREAS, Since the making of said contract last named, upon and for the consideration hereinafter specified, it has been agreed between the parties hereto that said Construction Company should be released from all obligations for the further performance of said last named contract with respect to the furnishing of rolling stock and equipment as therein provided; and that said Railway Company should indemnify and save said Construction Company harmless from all obligations and indebtedness by it in any manner heretofore incurred in the furnishing of such rolling

Agreement of
settlement between
C. M. Ry. Co. and
C. M. Construction Co.

stock and equipment in pursuance of said last named contract; and that said Railway Company should reimburse said Construction Company for all such rolling stock and equipment as might have been fully paid for by said Construction Company, and delivered by it to said Railway Company; and that such rolling stock and equipment as had been received, but only partially paid for by said Construction Company, and which had not been delivered by it to said Railway Company, should be returned by said Construction Company to the various rolling stock companies by which the same had been furnished; and that said Railway Company should reimburse said Construction Company such amount as might have been paid on account thereof; and

WHEREAS, Upon an accounting between said Railway Company and said Construction Company, it has been found that said Railway Company, prior to the first day of October, 1887, has performed a large amount of extra work, consisting of graduation and masonry, in and about the construction of said railroad, which extra work, said Construction Company might have been required to perform in pursuance of said contract and the expenses of which, said construction company, for the considerations herein named and to it moving from said Railway Company (to wit, its being released from the further performance of its said contract to furnish rolling stock and equipment and reimbursed the moneys already paid and indemnified against any indebtedness already incurred therefor, and also, among other considerations, indemnified against certain other liabilities hereinafter specified) has agreed to allow and repay to said Railway Company, the amount of which said work has been found to be the sum of \$334,969.56; and that said Construction Company has paid for rolling stock and equipment delivered to and now held and owned by said Railway Company, the sum of \$338,141.34 and has also paid on account of rolling stock and equipment afterwards returned by it to the various rolling stock companies by which the same were furnished and which are now held by said Railway Company under

Conditional Contract of Sale, the sum of \$49,242.50, being the total of \$387,383.84 paid by said Construction Company for the benefit of said Railway Company for and on account of rolling stock and equipment; and

Agreement of
settlement between
C. M. Ry. Co. and
C. M. Construction Co.

WHEREAS, There are certain claims made or asserted against said Construction Company for work and labor performed for it, and material supplied to it in the construction of said railroad, and for damages alleged to have been sustained by different parties or persons for injuries claimed to have been received during such construction and connected herewith, of which claims, among others, there is one in favor of Messrs. Orman Crook & Company for work and labor amounting to about \$14,000.00 and against which claims or liabilities the said Railway Company has agreed to indemnify and save the said Construction Company harmless in a sum not exceeding \$65,000.00; and,

WHEREAS, Upon such accounting between said Railway Company and said Construction Company, of all matters growing out of said contract, and connected therewith or otherwise, it is found that there is due to said Construction Company from said Railway Company, the sum of \$52,414.28, for the payment of which said indebtedness, said Construction Company, in consideration of the undertakings and promises of said Railway Company herein contained, has agreed to release and for ever discharge said Railway Company:

NOW THEREFORE, In consideration of the promises and of the mutual undertakings of the parties hereto and herein set forth, it is agreed as follows, viz.:

FIRST.—That said Railway Company hereby releases said Construction Company from any and all further claim, liability or obligation arising from, growing out of or connected with said contract of January 28th 1886, June 1st, 1886 and June 24th, 1887, and each and all of them including all claims for any additional work of graduation performed by said Railway Company between the first day of October, 1887 and the day of the date of the agreement, and which under the terms of said contracts, would be properly chargeable to said Construction Company, the

Agreement of
settlement between
C. M. Ry. Co. and
C. M. Construction Co.

said Railway Company hereby acknowledging that the same have been kept and performed by said Construction Company save only as such performance has been and is hereby waived and a substituted consideration agreed upon and accepted:

SECOND.—That said Railway Company hereby agrees to save and keep said Construction Company harmless from all obligations and indebtedness by it in any manner incurred in the purchase and furnishing of rolling stock and equipment for said railroad under and in pursuance of said contract of June 24th, 1887, and also, in an amount not exceeding the sum of \$65,000.00, to indemnify, save and keep harmless the said Construction Company from any and all liability on account of any claim or claims against said Construction Company for work and labor performed for it, or material supplied to it in the construction of said railroad, or for or on account of any claim or claims for damages alleged to have been sustained by any party, person or persons for injury received during such construction and connection therewith:

THIRD.—That, in consideration as aforesaid, said Construction Company does hereby wholly and forever discharge and release said Railway Company from any and all demands of any and every nature whatsoever (including the release and discharge of said indebtedness of \$52,414.28 above specified) which it may have against said Railway Company on account or arising out of said above mentioned contracts, or any or either of them or otherwise; and in further consideration thereof, said Construction Company does also hereby sell and transfer to said Railway Company, certain machinery and tools now owned by the Construction Company, and of an estimated value as agreed upon between said Construction Company and said Railway Company, of \$10,000.00; and the said Railway Company in like manner, and for like consideration, doth hereby wholly and forever discharge and release the said Construction Company.

IN WITNESS WHEREOF, The parties hereto have caused these presents to be signed on their behalf, by their

respective Presidents, and their corporate seals, attested by their respective Secretaries, to be hereunto affixed the day and year first written above.

THERE IS EVERY REASON to believe that the foregoing agreement of settlement was executed by the parties thereto and the records show that it was ratified by the directors of The Colorado Midland Railway Company at a meeting held on April 21, 1888. However, the original of this agreement seems to be lost and the only copies in existence are without signatures as above.

Loss of original of foregoing agreement.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE COLORADO MIDLAND RAILWAY COMPANY, HELD AT COLORADO SPRINGS ON MAY 21ST, 1888.

C. M. Ry. Co.
Directors' Meeting
May 21, 1888.

Mr. Rogers read a letter from Judge Wells in relation to the Agreement of Settlement with the Colorado Midland Construction Company.

After a lengthy discussion upon the same, Mr. Davis moved the adoption of the following resolution:

WHEREAS the Agreement of December 31st, A.D. 1887, between this Company and the said Colorado Midland Construction Company, and the accounting in the said agreement mentioned and referred to, was intended to be a full, absolute and final settlement of all and every claim or demand, of what nature soever, whether accrued or to accrue in favor of either company against the other, by reason of anything before that time done, suffered or omitted by either Company; and

Recitals as to agreement of settlement.

WHEREAS doubts have been suggested whether by the said agreement of December 31st, A.D., 1887, the true purpose, intention and understanding of the two companies is sufficiently set forth; Therefore be it

C. M. Ry. Co.
Directors' Meeting
May 21, 1888.
President authorized
to execute and deliver
a general release from
the Ry. Co. to the
Construction Co.
on receiving a
corresponding release
from that Co.

RESOLVED, That the President be and hereby is authorized and instructed to execute and deliver to the said Colorado Midland Construction Company a general release, in the name of this Company, of all and all manner of cause and causes of actions, suits, debts, dues, sums of money, claims and demands whatsoever in law or in equity, which this Company at any time prior to the said 31st day of December A.D. 1887, had or might have against the said Construction Company by reason of any matter or thing whatsoever from the beginning of the world to the said 31st day of December A.D., 1887, and that the Secretary attest the same and affix thereto the seal of the Company,

PROVIDED that such resolution shall take effect and the proposed Deed of Release be delivered only upon the passage of a like resolution and the delivery of a like Deed of Release by the Construction Company.

The resolution was adopted.

MORTGAGES AND INDENTURES OF TRUST

SECURING BONDS OF

THE COLORADO MIDLAND RAILWAY COMPANY.

FIRST MORTGAGE

OF

THE COLORADO MIDLAND RAILWAY COMPANY.

THIS INDENTURE, Made and entered into this fif- July 15, 1886.
teenth day of July, in the year one thousand eight hun-
dred and eighty-six, by and between THE COLORADO MID- Parties.
LAND RAILWAY COMPANY, hereinafter termed "THE RAIL-
WAY COMPANY," a corporation duly organized and existing
under and by virtue of the laws of the State of Colorado,
party of the first part, and THE CENTRAL TRUST COMPANY
OF NEW YORK, hereinafter termed "THE TRUSTEE," or
"THE SAID TRUSTEE," a corporation duly organized and ex-
isting under and by virtue of the laws of the State of New
York, party of the second part, *Witnesseth:*

THAT WHEREAS, The Railway Company has, under and by Authorized lines.
virtue of the laws of the State of Colorado and of its Cer-
tificate of Incorporation and the amendments thereto, become
entitled to survey, locate, construct, maintain and operate
a railway and telegraph line, from the City of Colorado
Springs, in El Paso County, Colorado, through the Ute Pass
into South Park, and by the most eligible route to Salida
and Leadville, with a branch down the Valley of Trout
Creek to its junction with the South Platte River, and with
a branch to Fairplay and Alma and to the mining districts

First Mortgage
C. M. Ry. Co.

adjacent thereto; also from Leadville, Lake County, Colorado, westward by the most eligible route, to Aspen, Pitkin County, and through Pitkin, Eagle, Garfield and Mesa Counties, by the most eligible route, to the western boundary of the State of Colorado, with various branches in its amended certificate of incorporation particularly described, and with such other extensions and branches as may be deemed necessary and desirable; and

Constructed lines
and proposed
construction and
equipment.

WHEREAS, The Railway Company has, in pursuance of the authority to it granted, as aforesaid, surveyed and located, and commenced to construct, that portion of its said line of railway and telegraph extending from the City of Colorado Springs, through the Ute Pass, to the City of Leadville, and thence westward to the mouth of Elk Creek on the Grand River, in Garfield County, and from a point near the confluence of Roaring Fork Creek and Frying Pan Creek to the Town (now City) of Aspen, being a total of two hundred and fifty (250) miles of main line of railway, more or less, and proposes to complete the construction thereof and to equip and maintain the same, and desires to borrow money for the purpose of providing for said construction, equipment and maintenance; and,

Meeting of
stockholders.

WHEREAS, At a meeting of the stockholders of the Railway Company, called for such purpose, and legally held at the City of Colorado Springs, Colorado, on the twelfth day of July, A.D. 1886, at which meeting all of the stockholders of the Railway Company were present in person or represented by proxy, the following preamble and resolutions were unanimously adopted:

Recital of
stockholders'
resolution.

WHEREAS, this Company is authorized by its certificate of incorporation and the amendments thereto, to locate, construct, operate and maintain a railway and telegraph line from the city of Colorado Springs, Colorado, through the Ute Pass into South Park, and by the most eligible route, to Salida and Leadville, with a branch down the valley of Trout Creek to its junction with the Platte River, and with a branch to Fairplay and Alma, and to the mining districts adjacent thereto; also, from Leadville, Lake County, Colorado, westward by the most eligible route, to Aspen, Pitkin County, and through Pitkin, Eagle, Garfield and Mesa Counties, by the most eligible route, to the western boundary of the State

of Colorado, with various other branches, as may be deemed necessary and desirable, and,

First Mortgage
C. M. Ry. Co.

WHEREAS, this Company has surveyed and located, and is now engaged in constructing so much of its said line of railway and telegraph as lies between the City of Colorado Springs, El Paso County, and the City of Leadville, Lake County, and between the City of Leadville and the mouth of Elk Creek on the Grand River, in Garfield County, and between a point near the confluence of Roaring Fork Creek and Frying Pan Creek and the Town of Aspen, Pitkin County, and proposes to complete the construction thereof, therefore,

Recital of
stockholders'
resolution.

RESOLVED, That for the purpose of securing the means required for the construction and completion of its said located line of railway and telegraph above described, and generally to improve the condition of the Company's property lying along its said located line of railway above described, and to procure therefor rights of way, depot grounds, machine shops, equipment, rolling stock and all the necessary and usual appurtenances and facilities of a railway and telegraph line, the President and Secretary of this Company be, and they are hereby authorized to execute, in such form as may be advised by counsel, a mortgage or deed of trust, in eight or more originals, covering and conveying all the right, title, interest, claim or demand, which it now has or may hereafter acquire, in and to the corporate franchise to survey, locate, construct, maintain, use and operate the line of railway and telegraph above described, namely, from Colorado Springs to Leadville, and from Leadville to Elk Creek, and from a point near the confluence of Roaring Fork Creek and Frying Pan Creek, to Aspen, with the sidings and telegraph lines appurtenant thereto, the same being two hundred and fifty miles of main line of railway, more or less; including, also, all the appurtenances of the said located line of railway and telegraph, and all the rolling stock, rails, ties, timber, furniture, fuel and other material, supplies or personal property, of every nature whatsoever, now owned by this Company, or which may hereafter be acquired by it, for or in respect of the construction, maintenance or operation of said located line of railway and telegraph above described, or which may be purchased or

Resolution of
stockholders
authorizing
mortgage and
bonds to be
secured thereby.

First Mortgage
C. M. Ry. Co.Resolution of
stockholders
authorizing
mortgage and
bonds to be
secured thereby.

acquired with money arising from the sale of the bonds to be secured by such mortgage or deed of trust; that such mortgage or deed of trust be conditioned to cover, also, any extension or branch from any point on the line of railway, hereinbefore described, to the extent to which the proceeds of the bonds secured by such mortgage, or deed of trust, shall be used in the construction of such extension or branch; that the President of the Company be, and he is hereby empowered to select a trustee or trustees, under such mortgage or deed of trust, to be executed as aforesaid; that such mortgage or deed of trust shall be conditioned to secure the first mortgage bonds of this Company for the amount of six million, two hundred and fifty thousand (6,250,000) dollars, and the aggregate issue and certification thereof, by the trustees, shall not exceed twenty-five thousand (25,000) dollars per mile of road constructed ready for use;

PROVIDED, HOWEVER, That provision may be made in said deed of trust for the issue of so many of said bonds, in advance of construction, not exceeding one million (1,000,000) dollars, par value, for the purpose of purchasing material, or for any other lawful purpose, as the Executive Committee of this Company may deem necessary. That said bonds shall be issued in the form of coupon bonds; shall be for the sum of one thousand (1,000) dollars each; shall be signed by the President and Secretary of the Company and attested by its corporate seal; shall mature fifty years from the first day of June, A.D. 1886; shall bear interest at the rate of six per cent. per annum, payable in semi-annual coupons, maturing in June and December of each year, and shall be payable, principal and interest, in the City of New York, in gold coin of the United States of America, of or equal to the present standard, and that, in other matters of detail, the said bonds and mortgage, or deed of trust, shall be in such form and to such effect, as the President and Secretary of this Company shall determine and approve; and

Adoption of
same resolutions
by directors.

WHEREAS, At a meeting of the Board of Directors of the Railway Company, held at the City of Colorado Springs, on the twelfth day of July, A.D. 1886, and after the adjournment of the said stockholders' meeting, the same preamble and resolutions were unanimously adopted in the same words and figures aforesaid; and,

WHEREAS, In pursuance of said resolutions, and of the authority in it vested by the laws of the State of Colorado, the Railway Company has determined to issue said bonds and to secure the payment of the same, principal and interest, by this mortgage or deed of trust, said bonds to stand equally and ratably secured hereby, without any preference whatever arising from the time of issuing or otherwise, and in the manner and on the conditions as herein provided, and each of said bonds to be executed by and under the seal of the Railway Company, signed and attested by its President and Secretary, and the interest coupons to be authenticated by and with the name of the Treasurer; and each of said bonds being so signed, sealed, executed and authenticated, it shall be countersigned by the Trustee, which countersigning or certifying shall be conclusive, and the only conclusive evidence that such bond is secured by this indenture; and,

First Mortgage
C. M. Ry. Co.

Proposed issue
of bonds.

WHEREAS, The President and Secretary of the Railway Company have determined, as authorized by said resolution, that said bond shall be in the following form :

Form of bond.

UNITED STATES OF AMERICA. STATE OF COLORADO.

THE COLORADO MIDLAND RAILWAY COMPANY.

FIRST MORTGAGE SIX PER CENT. FIFTY YEARS
GOLD BOND.

Total authorized issue, \$6,250,000; limited to \$25,000 per mile of constructed road.

No. \$1,000

For value received, the Colorado Midland Railway Company, a corporation duly organized and existing under the laws of the State of Colorado, promises to pay to the bearer of this bond, or in case this bond be registered, then to the registered owner thereof, at the fiscal agency of said Company, in the City of New York, on the first day of June, nineteen hundred and thirty-six, One Thousand Dollars in gold coin of the United States, of or equal to the present standard, with interest thereon, in like gold coin, at the rate of six per cent. per annum, payable at said agency in the City of

First Mortgage
C. M. Ry. Co.

adjacent thereto ; also from Leadville, Lake County, Colorado, westward by the most eligible route, to Aspen, Pitkin County, and through Pitkin, Eagle, Garfield and Mesa Counties, by the most eligible route, to the western boundary of the State of Colorado, with various branches in its amended certificate of incorporation particularly described, and with such other extensions and branches as may be deemed necessary and desirable ; and

Constructed lines
and proposed
construction and
equipment.

WHEREAS, The Railway Company has, in pursuance of the authority to it granted, as aforesaid, surveyed and located, and commenced to construct, that portion of its said line of railway and telegraph extending from the City of Colorado Springs, through the Ute Pass, to the City of Leadville, and thence westward to the mouth of Elk Creek on the Grand River, in Garfield County, and from a point near the confluence of Roaring Fork Creek and Frying Pan Creek to the Town (now City) of Aspen, being a total of two hundred and fifty (250) miles of main line of railway, more or less, and proposes to complete the construction thereof and to equip and maintain the same, and desires to borrow money for the purpose of providing for said construction, equipment and maintenance ; and,

Meeting of
stockholders.

WHEREAS, At a meeting of the stockholders of the Railway Company, called for such purpose, and legally held at the City of Colorado Springs, Colorado, on the twelfth day of July, A.D. 1886, at which meeting all of the stockholders of the Railway Company were present in person or represented by proxy, the following preamble and resolutions were unanimously adopted :

Recital of
stockholders'
resolution.

WHEREAS, this Company is authorized by its certificate of incorporation and the amendments thereto, to locate, construct, operate and maintain a railway and telegraph line from the city of Colorado Springs, Colorado, through the Ute Pass into South Park, and by the most eligible route, to Salida and Leadville, with a branch down the valley of Trout Creek to its junction with the Platte River, and with a branch to Fairplay and Alma, and to the mining districts adjacent thereto ; also, from Leadville, Lake County, Colorado, westward by the most eligible route, to Aspen, Pitkin County, and through Pitkin, Eagle, Garfield and Mesa Counties, by the most eligible route, to the western boundary of the State

the books of the Railway Company, at its agency in the City of New York. If registered by the transfer agent of the Railway Company, no transfer, except on the books of the Company, shall be valid, unless the last transfer shall have been to bearer, which shall restore transferability by delivery; but this bond shall continue subject to successive registrations and transfers to bearer, as aforesaid, at the option of each holder. This bond is to be valid only when authenticated by a certificate endorsed thereon, signed by the Trustee in said mortgage or deed of trust, to the effect that it is one of the bonds secured thereby.

First Mortgage
C. M. Ry. Co.
Form of bond.

IN WITNESS WHEREOF, The said The Colorado Midland Railway Company has caused its corporate seal to be affixed hereto, and the same to be subscribed by its President and attested by its Secretary, this first day of June, eighteen hundred and eighty-six, and the annexed interest coupons to be executed with the engraved signature of its Treasurer.

THE COLORADO MIDLAND RAILWAY COMPANY.

By

[SEAL]

President.

Attest:

Secretary.

[FORM OF EACH INTEREST COUPON.]

\$30.

No.

The Colorado Midland Railway Company will pay the bearer, at its fiscal agency in the City of New York, Thirty Dollars in gold coin of the United States of America on the first day of _____, being six months' interest then due on its first mortgage bond No.

Treasurer.

[FORM OF TRUSTEE'S CERTIFICATE ENDORSED ON EACH BOND.]

The Central Trust Company of New York hereby certifies that the within bond is one of the bonds secured by the within mentioned mortgage or deed of trust, and that the said

First Mortgage
C. M. Ry. Co.

Resolution of
stockholders
authorizing
mortgage and
bonds to be
secured thereby.

acquired with money arising from the sale of the bonds to be secured by such mortgage or deed of trust; that such mortgage or deed of trust be conditioned to cover, also, any extension or branch from any point on the line of railway, hereinbefore described, to the extent to which the proceeds of the bonds secured by such mortgage, or deed of trust, shall be used in the construction of such extension or branch; that the President of the Company be, and he is hereby empowered to select a trustee or trustees, under such mortgage or deed of trust, to be executed as aforesaid; that such mortgage or deed of trust shall be conditioned to secure the first mortgage bonds of this Company for the amount of six million, two hundred and fifty thousand (6,250,000) dollars, and the aggregate issue and certification thereof, by the trustees, shall not exceed twenty-five thousand (25,000) dollars per mile of road constructed ready for use;

PROVIDED, HOWEVER, That provision may be made in said deed of trust for the issue of so many of said bonds, in advance of construction, not exceeding one million (1,000,000) dollars, par value, for the purpose of purchasing material, or for any other lawful purpose, as the Executive Committee of this Company may deem necessary. That said bonds shall be issued in the form of coupon bonds; shall be for the sum of one thousand (1,000) dollars each; shall be signed by the President and Secretary of the Company and attested by its corporate seal; shall mature fifty years from the first day of June, A.D. 1886; shall bear interest at the rate of six per cent. per annum, payable in semi-annual coupons, maturing in June and December of each year, and shall be payable, principal and interest, in the City of New York, in gold coin of the United States of America, of or equal to the present standard, and that, in other matters of detail, the said bonds and mortgage, or deed of trust, shall be in such form and to such effect, as the President and Secretary of this Company shall determine and approve; and

Adoption of
same resolutions
by directors.

WHEREAS, At a meeting of the Board of Directors of the Railway Company, held at the City of Colorado Springs, on the twelfth day of July, A.D. 1886, and after the adjournment of the said stockholders' meeting, the same preamble and resolutions were unanimously adopted in the same words and figures aforesaid; and,

WHEREAS, In pursuance of said resolutions, and of the authority in it vested by the laws of the State of Colorado, the Railway Company has determined to issue said bonds and to secure the payment of the same, principal and interest, by this mortgage or deed of trust, said bonds to stand equally and ratably secured hereby, without any preference whatever arising from the time of issuing or otherwise, and in the manner and on the conditions as herein provided, and each of said bonds to be executed by and under the seal of the Railway Company, signed and attested by its President and Secretary, and the interest coupons to be authenticated by and with the name of the Treasurer; and each of said bonds being so signed, sealed, executed and authenticated, it shall be countersigned by the Trustee, which countersigning or certifying shall be conclusive, and the only conclusive evidence that such bond is secured by this indenture; and,

First Mortgage
C. M. Ry. Co.

Proposed issue
of bonds.

WHEREAS, The President and Secretary of the Railway Company have determined, as authorized by said resolution, that said bond shall be in the following form :

Form of bond.

UNITED STATES OF AMERICA. STATE OF COLORADO.

THE COLORADO MIDLAND RAILWAY COMPANY.

FIRST MORTGAGE SIX PER CENT. FIFTY YEARS
GOLD BOND.

Total authorized issue, \$6,250,000; limited to \$25,000 per mile of constructed road.

No. _____ \$1,000

For value received, the Colorado Midland Railway Company, a corporation duly organized and existing under the laws of the State of Colorado, promises to pay to the bearer of this bond, or in case this bond be registered, then to the registered owner thereof, at the fiscal agency of said Company, in the City of New York, on the first day of June, nineteen hundred and thirty-six, One Thousand Dollars in gold coin of the United States, of or equal to the present standard, with interest thereon, in like gold coin, at the rate of six per cent. per annum, payable at said agency in the City of

First Mortgage
C. M. Ry. Co.

Form of bond.

New York, semi-annually, on the first days of June and December in each year, upon presentation and surrender of the annexed interest coupons. This bond is one of a series of first mortgage bonds, each of the denomination of One Thousand Dollars, numbered consecutively from 1 to 6,250, the payment of the principal and interest of which is secured by a mortgage or deed of trust, dated July 15, 1886, executed by the said Railway Company, to the Central Trust Company of New York as Trustee, and duly recorded and conveying to said Trustee the corporate franchises of said Railway Company, to survey, locate, construct, maintain, use and operate so much of its line of railway and telegraph as lies, or shall hereafter be constructed, between the City of Colorado Springs, El Paso County, and the City of Leadville, Lake County, and between the City of Leadville and the mouth of Elk Creek, on the Grand River, in Garfield County, and between a point near the confluence of Roaring Fork Creek and Frying Pan Creek, and the Town of Aspen, in Pitkin County, State of Colorado, and its said line of railway and telegraph, above described, and the lands, rolling stock, equipment and all other property now belonging to the said Railway Company, or which may hereafter be acquired by it, for or in respect of the construction, maintenance or operation of its said line of railway and telegraph above described, all of said property being more fully set forth in said mortgage or deed of trust, which is a first lien on all the property therein described. The aggregate issue and certification of bonds, under said mortgage or deed of trust, is limited, as provided therein, to Twenty-five Thousand Dollars per mile of road constructed ready for use. If default shall be made in the payment of any semi-annual instalment of interest on this bond, when the same shall become due and be demanded, and shall remain unpaid for six months after such demand, the principal of this bond shall become due and payable in the manner provided in the said mortgage or deed of trust. The said Company, and all of its property, is liable to pay this bond; but stockholders are not individually liable thereon nor in respect thereto. Said Company hereby waives the benefit of any extension, stay or appraisement laws now existing, or that may hereafter exist. This bond shall pass by delivery unless registered, and if registered, by transfer on

claim or demand whatsoever, which the Railway Company now has, or is entitled to, or which it shall or may at any time hereafter acquire, by or on account of its Certificate of Incorporation, or any amendment or amendments thereto, or otherwise, of, in and to the corporate franchise to survey, locate, construct, maintain, use and operate the line of railway and telegraph hereinbefore particularly described, namely: beginning at Colorado Springs, El Paso County, and extending, *via* Leadville, Lake County, to the mouth of Elk Creek, on the Grand River, in Garfield County, and from a point near the confluence of Roaring Fork Creek and Frying Pan Creek, to Aspen, Pitkin County, all in Colorado; together with the said line of railway and telegraph located, and to be located, between said points, and now in contemplation or in process of construction, and hereafter to be completed, being in all about two hundred and fifty miles of main line of railway, and all the rolling stock and equipment of whatever nature or kind, owned and hereafter to be owned for the purpose of operating said line of railway and telegraph above particularly described; and, also, all the lands, tenements and hereditaments acquired or appropriated, or which may hereafter be acquired or appropriated, for the purpose of a right of way for said line of railway above described, and all the easements or appurtenances thereunto belonging or in any way appertaining, and all railways, ways and rights of way, depot grounds, tracks, bridges, viaducts, culverts, fences and other structures; engine houses, freight houses, car houses, wood houses, ware houses, machine shops, work shops, superstructures and erections, whether now in existence, or hereafter at any time required for the use of, or in connection with said line of railway above described; also, all locomotives, tenders, cars and other rolling stock or equipment, and all rails, ties, chairs, machinery tools, implements, fuel and materials, whatsoever, for or in respect of the constructing and operating, or replacing, of said line of railway and telegraph above described, or any part thereof, whether now held or owned, or hereafter to be acquired by the Railway Company, together with all the equipment and appurtenances whatsoever, thereunto belonging, whether now held or hereafter acquired; and all replacements and renewals and all franchises con-

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C. M. Ry. Co.

Description of
railroads and
property mortgaged.

First Mortgage
C. M. Ry. Co.

mortgage, or deed of trust, has been executed and delivered, and the certificate of record thereof filed with this Trustee.

THE CENTRAL TRUST COMPANY OF NEW YORK.

Trustee.

By

President.

Provisions for
application of
said bonds and
their proceeds.

AND, WHEREAS, It is further agreed by the Railway Company, as a covenant and condition of this mortgage or deed of trust, and of the certification and issue of said bonds to it by the Trustee, that all and singular of said bonds, so to be certified and issued, shall be faithfully applied to the legitimate expenses and cost of location, construction, improvement and maintenance of its said line of railway and telegraph lying between Colorado Springs and Leadville, and between Leadville and Elk Creek, and between a point near the confluence of Roaring Fork Creek and Frying Pan Creek and the Town (now City) of Aspen, or of branches or extensions thereof, as hereinafter provided, and to the procuring of equipment therefor, and to the other legitimate and necessary expenses of the Railway Company incurred in connection with or in consequence of the survey, location, construction, maintenance or operation of said line of railway above described, or of such branches or extensions, or in connection with the organization of the Railway Company or of the procurement or preservation of any of its franchises, and shall be certified by the Trustee and delivered to the Railway Company, or upon its order, as sections of five or more miles are constructed ready for use, and the fact of such construction is certified to by the chief executive officer of the Railway Company; such construction, "ready for use," for the purposes of the certification and delivery of bonds, not to include rolling stock; *Provided*, however, and it is hereby expressly agreed that one thousand of the bonds hereby secured, and being those numbered from one to one thousand, both inclusive, shall at any time, upon the written application of the chief executive officer of the Railway Company, accompanied by a resolution of the Executive Commit-

tee of the Railway Company, passed at any meeting of said Committee, authorizing such application to be made, be certified by the Trustee and delivered to the Railway Company, or upon its order, to be used in the purchase of iron or steel for said road, or for any other lawful purpose hereunder; but such issue of bonds shall be averaged on the whole line, so that the aggregate issue shall finally not exceed an average of twenty-five thousand dollars per mile of completed road; it is also expressly agreed, for the guidance and protection of the Trustee in the certification and delivery of bonds hereunder, other than the one thousand bonds above mentioned, that bonds shall be certified by the Trustee and delivered to the Railway Company, or upon its order, only upon the written application of the Railway Company, expressed through a resolution of its Board of Directors or Executive Committee, adopted at a regular meeting, or at a special meeting called for that purpose, wherein it shall be stated what amount of bonds are required at the time, and the purpose for which the same are required, which resolution shall be accompanied by a certificate of the chief executive officer of the Railway Company, as hereinbefore provided, and which resolution and certificate shall be full authority and protection to said Trustee to certify and deliver bonds; and no duty is imposed upon the said Trustee, to look behind such resolution or certificates, before certifying the bonds and delivering the same. No bond to be issued under the provisions of this mortgage or deed of trust, by the Railway Company, shall be obligatory upon it until the said Trustee shall endorse thereon, and duly sign, a certificate substantially in the form hereinbefore described.

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C. M. Ry. Co.

PROVIDED, FURTHER, and it is hereby expressly agreed that, while the lien of this mortgage, or deed of trust, is limited to that portion of the line hereinbefore particularly described, namely: from Colorado Springs to Leadville, and from Leadville to Elk Creek, and from a point near the confluence of Roaring Fork Creek and Frying Pan Creek to Aspen, the same being two hundred and fifty miles, more or less, of main line of railway, with the sidings and telegraph lines appurtenant thereto, *nevertheless*, it is further agreed and understood, that if hereafter the Railway Company, under its existing Certificate of Incorporation or any amend-

Lien of this mortgage
limited to certain
lines, but new branch
may be included
by means of a
supplemented
mortgage.

First Mortgage
C. M. Ry. Co.

ment thereto, shall determine to build any extension or extensions, branch or branches, to coal mines, coking ovens, stone quarries, smelters or to any other property or industry with which it is necessary or desirable to connect the said main line of road, above particularly described, and shall apply, or shall notify the Trustee in writing of its desire to apply, the proceeds of the sale of the bonds secured hereby to the construction of any such extension or branch, then and in such case, the lien of this mortgage or deed of trust, shall extend to and cover the mileage of road so constructed, of any such extension or branch, to the extent to which the proceeds of such bonds are used in the construction thereof. In which event the Railway Company shall execute an indenture, supplemental hereto, conveying to the Trustee such extension or branch to the extent to which the proceeds of said bonds have been used in the construction thereof, for the additional and further security of all the bonds issued hereunder and secured hereby.

And upon the execution of such supplemental indenture, it shall be the duty of the Trustee to certify and deliver bonds to the Railway Company, in respect of such extension or branch, in the same manner and to the same extent as if such extension or branch, had been part of the said main line of railway, hereinbefore particularly described, and hereby conveyed to the Trustee; and *provided further*, that the aggregate amount of bonds issued hereunder and secured hereby shall not exceed the said sum of six million two hundred and fifty thousand dollars (\$6,250,000).

Granting clause.

NOW, THEREFORE, THIS INDENTURE FURTHER WITNESSETH: That the Railway Company, party of the first part, in consideration of the premises, and of one dollar to it in hand paid at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the punctual payment of the principal and interest of the bonds aforesaid, to be issued as hereinbefore mentioned, hath granted, bargained, sold, assigned, transferred, set over, released, conveyed and confirmed, and by these presents does grant, bargain, sell, assign, transfer, set over, release, convey and confirm unto the Trustee, party of the second part, and to its successor or successors in trust herein, all the right, title, interest and

claim or demand whatsoever, which the Railway Company now has, or is entitled to, or which it shall or may at any time hereafter acquire, by or on account of its Certificate of Incorporation, or any amendment or amendments thereto, or otherwise, of, in and to the corporate franchise to survey, locate, construct, maintain, use and operate the line of railway and telegraph hereinbefore particularly described, namely: beginning at Colorado Springs, El Paso County, and extending, *via* Leadville, Lake County, to the mouth of Elk Creek, on the Grand River, in Garfield County, and from a point near the confluence of Roaring Fork Creek and Frying Pan Creek, to Aspen, Pitkin County, all in Colorado; together with the said line of railway and telegraph located, and to be located, between said points, and now in contemplation or in process of construction, and hereafter to be completed, being in all about two hundred and fifty miles of main line of railway, and all the rolling stock and equipment of whatever nature or kind, owned and hereafter to be owned for the purpose of operating said line of railway and telegraph above particularly described; and, also, all the lands, tenements and hereditaments acquired or appropriated, or which may hereafter be acquired or appropriated, for the purpose of a right of way for said line of railway above described, and all the easements or appurtenances thereunto belonging or in any way appertaining, and all railways, ways and rights of way, depot grounds, tracks, bridges, viaducts, culverts, fences and other structures; engine houses, freight houses, car houses, wood houses, ware houses, machine shops, work shops, superstructures and erections, whether now in existence, or hereafter at any time required for the use of, or in connection with said line of railway above described; also, all locomotives, tenders, cars and other rolling stock or equipment, and all rails, ties, chairs, machinery tools, implements, fuel and materials, whatsoever, for or in respect of the constructing and operating, or replacing, of said line of railway and telegraph above described, or any part thereof, whether now held or owned, or hereafter to be acquired by the Railway Company, together with all the equipment and appurtenances whatsoever, thereunto belonging, whether now held or hereafter acquired; and all replacements and renewals and all franchises con-

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C. M. Ry. Co.

Description of
railroads and
property mortgaged.

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connected with, or belonging to, said line of railway and telegraph above described, or to the construction, maintenance or use thereof, now held, or hereafter to be acquired, by the Railway Company, and all corporate franchises of any nature, relating to said line of railway and telegraph above described, which are now, or may hereafter be possessed or exercised by the Railway Company, together with all and singular, the endowments, income, advantages, tenements, hereditaments and appurtenances to the said above described line of railway and telegraph belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, tolls, incomes, rents, profits and issues thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, present or prospective, of the Railway Company, in and to the said line of railway and telegraph above described, and every part of the same, and every parcel thereof, with the appurtenances:

Habendum clause.

TO HAVE AND TO HOLD, all and singular, the above described premises, property rights, franchises and appurtenances to the Trustee, party of the second part, its successor or successors in trust, to the only proper use and behoof of the Trustee, its successor or successors; it being, however, declared to be the true intent and meaning of these presents that the Railway Company, party of the first part, shall and doth convey, to the Trustee, party of the second part, all and all manner of franchises, of every kind and description, however derived, and all manner of real estate or interest therein, and all and all manner of personal property, of whatever nature or description the same may be, at the date of these presents owned or possessed by the Railway Company, or which may, at any time hereafter, during the continuance of this trust, be acquired by the Railway Company, and which are a part of, or belong to, or are necessary to the construction, operation or maintenance of its said line of railway and telegraph lying between the City of Colorado Springs and the City of Leadville, and between the City of Leadville and the mouth of Elk Creek on Grand River, and between a point at or near the confluence of Roaring Fork Creek and Frying Pan Creek and the Town (now City) of Aspen, and no more: it being distinctly

Declaration as to
what property is
conveyed.

understood and agreed that the lien of this deed of trust shall extend to and cover only its said line of railway and telegraph above particularly described, together with the franchises, rights and properties to said line of railway and telegraph belonging, and shall not in any manner affect, or become a lien upon, any other line, or portion of line, of railway or telegraph which the Railway Company may hereafter construct or in any manner acquire; IN TRUST, NEVERTHELESS, for the uses and purposes herein declared and expressed, as follows, to-wit:

First Mortgage
C. M. Ry. Co.

Lien of this mortgage
not to extend to other
after acquired lines.

First.—To secure the payment of the bonds of the Railway Company, to be issued as hereinbefore recited, and for the equal *pro rata* benefit of all and every of the persons or corporations which shall at any time be or become the holders of said bonds, subject to the terms, provisions, covenants and stipulations in said bonds contained, without any preference or priority of any one bond over another, by reason of priority of time of the issuance or negotiation thereof, or otherwise.

Mortgaged property
to be held as security
for all bonds issued
hereunder.

Second.—Until default shall be made by the Railway Company in the payment of taxes or assessments upon the property herein and hereby mortgaged, or some part thereof, or in the payment of the principal or interest of said bonds, or some part of either principal or interest, or until default shall be made in respect to something herein or hereby required to be done, performed or kept by the Railway Company, or until, by the express conditions of this indenture, the right of entry shall accrue to the Trustee, the Railway Company shall be permitted to possess, manage, use and enjoy, all and singular, the said property, including the said railway or railways, with their appurtenances, equipment and their said franchises, and to take and use the rents, incomes, profits, tolls and issues thereof, in the same manner and with the same effect as if this indenture had not been made.

Possession of
mortgagor until
default.

Third.—And the Railway Company, in consideration of the premises, covenants, promises and agrees:

Covenants of Ry. Co.

That, having possession as aforesaid, it will well and truly pay and discharge, or cause to be paid and discharged, each and every tax and assessment, or other liability and governmental charge, which may, from time to time, be lawfully

First Mortgage
C. M. Ry. Co.

Covenants of Ry. Co.

levied or imposed, by competent authority, upon the said railway property, premises, or upon any part thereof, the lien whereof might or could be held to be superior to the lien of this indenture, so that the priority of this indenture shall, at all times, be duly maintained and preserved; and will at all times keep insured, in good, safe and reliable insurance companies, its rolling stock, tools and machinery, buildings, bridges and other structures, erected or to be erected by it, or on its premises, and all other such property, provided for use and used by it, in connection with the line of railway or telegraph herein described, as is usually insured by railway companies, and in the same manner and to the same extent; and will at all times diligently preserve all the rights and franchises to it granted and upon it conferred by the laws of the State of Colorado; and will, at all times, maintain, preserve and keep, all and singular, the said line or lines of railway and telegraph now owned or possessed, or which may hereafter be constructed or acquired by it, and extending from Colorado Springs, *via* Leadville, to the mouth of Elk Creek aforesaid, and from a point near the confluence of Roaring Fork Creek and Frying Pan Creek, to Aspen, and every part thereof, with the rolling stock, fixtures and appurtenances, and every part and parcel thereof, in good repair, working order and condition, and fully supplied with motive power, rolling stock and equipment; and shall and will, from time to time, make all needful and proper repairs, renewals and replacements, useful alterations, additions and improvements, so that the traffic and business of said line of railway and telegraph, and of every part thereof, shall at all times be done with safety and expedition.

In case of default continued for six months, Trustee may enter and take possession.

Fourth.—In case default shall be made by the Railway Company in the payment of the principal of, or of any interest on, any of the bonds secured by this indenture, according to the tenor and effect of such bonds and the coupons thereto annexed, and if such default shall continue for the period of six months after payment of the same shall have been duly demanded, in writing, of the Railway Company, or at its said fiscal agency in the City of New York, or in case default shall be made by the Railway Company in the payment of any taxes, assessment or other governmental charge, lawfully levied and imposed upon the said railway property

and premises, or any part thereof, and such default shall continue for the period of six months after such taxes, assessment or governmental charge shall become due and payable; or in case default shall be made by the Railway Company in keeping insured its rolling stock, tools and machinery, buildings, bridges and other structures, as aforesaid, and such default shall continue for a period of ninety (90) days after demand of performance by the Trustee herein; or in case default shall be made by the Railway Company in the due observance of any other of its covenants, promises or agreements herein required to be done, performed or kept by it, and such default shall continue for the period of one year after demand of performance by the Trustee herein, then, and in each and every such case of default, continued as aforesaid, the said Trustee, if he shall elect so to do, may, and if requested in writing by the holders of one-half of the bonds secured hereby and outstanding at the time of such default, shall, by its attorney or attorneys, agent or agents, enter into and upon, all and singular, the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, and each and every part thereof, excluding therefrom the Railway Company, its agents, servants and employes, and have and hold the same; use, operate, manage and control said railway; regulate tolls and the transportation of passengers and freight thereon; and make, from time to time, at the expense of the trust estate, all repairs and replacements and such useful alterations, additions and improvements thereto, as well in respect to the rolling stock or equipments as to the railway and its appurtenances, and conduct the business thereof by its attorneys, agents, superintendents or managers, as may seem to it judicious and for the best interests, as well of the public as of the holders of said bonds; and, upon such entry, it shall be lawful for the Trustee, its agents or attorneys, from time to time, to insure or keep insured, at the expense of the trust estate, the rolling stock, tools and machinery, buildings, bridges and other structures erected and provided for use in connection with said railway, whereof it shall become possessed, in the same manner and to the same extent as the Railway Company might have done; and to collect and receive all tolls,

First Mortgage
C. M. Ry. Co.

First Mortgage
C. M. Ry. Co.

freights or incomes, rents, issues and profits of the same, and every part thereof; and after deducting the expense of operating said railway and conducting the business thereof, and all repairs, replacements, alterations and additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and other proper charges upon the said premises and property, or any part thereof, as well as a just and reasonable compensation for its own services and the services of all attorneys, agents, clerks, servants and other employes by it properly engaged or employed, to apply the moneys, arising as aforesaid, to the payment of the interest in arrear, if any, or which shall, after such entry, become due and payable, on the outstanding bonds secured hereby, in the order in which such interest shall become due, ratably, to the person or persons holding the coupons therefor, without any discrimination or preference between them on account of the date or dates or the maturing of said bonds, or the times of the actual issues thereof, and according to the rate in said bond provided; and if, after paying all such interest, a surplus shall remain, such surplus shall be applied to the satisfaction of the principal of said bonds, at the time due and unpaid, ratably, without discrimination or preference, as aforesaid.

Power of sale
on default.

Fifth.—In case default shall be made by the Railway Company in the payment of the principal of, or of any interest upon, any of said bonds as aforesaid, and such default shall continue for the period of six months after demand in writing made for payment, as aforesaid, it shall be lawful for the said Trustee, after entry as aforesaid, or other entry, or without entry, by its attorney or attorneys, agent or agents, to sell and dispose of all and singular the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, or from time to time, as it shall deem proper, of so much thereof as may be sold separately without material injury to the parties interested, and be sufficient to pay the amount due on such bonds, then outstanding, for principal and interest, according to the terms thereof, together with the costs and expenses of such sale, and of all right, title, interest, claim and demand whatsoever, benefit, equity of redemption and statutory right of redemption of the Railway Company, its suc-

bonds may, in writing, under their hands and seals, declare, or instruct the Trustee to declare, the said principal to be due, as aforesaid, or waive, or instruct the Trustee to waive, the right so to declare the principal due by reason of such default or defaults, upon such terms and conditions as such majority shall deem proper; *Provided*, that no such action of the said bondholders, or of the Trustee, shall extend to, or be taken to affect, any subsequent default, or to impair the rights resulting therefrom.

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C. M. Ry. Co.

Eighth.—The Railway Company hereby covenants and agrees, to and with the said Trustee, on behalf and for the benefit of the holders of the bonds secured hereby, that it will, from time to time, and at all times, upon reasonable request, make, execute, acknowledge and deliver, at its own expense, all such further acts, deeds, conveyances and assurances in law for the better assuring unto the Trustee, and its successor or successors in the trust hereby created, upon the trusts and for the purposes herein expressed or intended, all and singular the property, premises, railway equipment and appurtenances, rights, interests and franchises hereby mortgaged or conveyed in trust, or intended or purported so to be, whether now owned or possessed by or vested in the Railway Company, or that may be subsequently acquired or vested in it, as by the Trustee or its counsel learned in the law, shall be reasonably devised, advised or required; and the Railway Company shall furnish to the Trustee, from time to time and at all times, upon its reasonable request in writing, a full and true inventory of all the movable property appertaining to said line of railway, hereinbefore described and hereby conveyed, and to the operation thereof, and which is transferred or intended to be transferred by this indenture; but no failure to demand or furnish such inventory shall impair or affect the operation of this indenture, upon any property herein agreed or intended to be transferred.

Covenant of
further assurance.

Ry. to furnish to
Trustee inventory of
movable property
from time to time.

Ninth.—The Railway Company may, at any time hereafter, before the full payment of said bonds, and whenever it shall deem it expedient for the better security of said bonds, although such default may not have occurred as to entitle the Trustee to enter into possession of the whole or any part of the said railway property, surrender and deliver

Ry. Co. may
voluntarily surrender
its property to the
Trustee without
default.

First Mortgage
C. M. Ry. Co.

On default continued for six months, Trustee, on request of the holders of one-half of outstanding bonds, may institute foreclosure proceedings or apply for a receiver, and shall have right to nominate the receiver.

In case of default continued for six months, a majority in interest of the bondholders may declare principal to be due.

compensation for its services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be, at the time, outstanding and unpaid, whether the same shall or shall not have previously become due, and of the interest which shall have accrued, at that time, on the said principal, and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principal and such accrued and unpaid interest; and if, after satisfaction thereof, as aforesaid, a surplus shall remain, shall pay the same over to the Railway Company, its successors or assigns.

Sixth.—In case default shall be made by the Railway Company in the payment of the principal or of any interest upon any of said bonds, as aforesaid, and such default shall continue for the period of six months after demand in writing made for payment, as aforesaid, then the said Trustee, if it shall elect so to do, may, and if requested in writing by the holders of one-half of the bonds secured hereby and then outstanding shall (upon being properly indemnified) apply to any court, having proper jurisdiction in the premises, for the foreclosure and sale of the mortgaged premises and property, rights, interests and franchises, and for the appointment in the meantime of a Receiver of the same, under this indenture, or (as an alternative of entry in that behalf, hereinbefore given) for the appointment of a Receiver, without applying for a foreclosure or sale of the mortgaged premises; and, in either case, the Trustee shall have the right to nominate to the Court the person to be appointed Receiver.

Seventh.—In case default shall be made by the Railway Company in the payment of any interest upon any of said bonds, hereby secured, according to the tenor and effect of such bonds and of the coupons thereto annexed, and such default shall continue for the period of six months after demand in writing made for payment, as aforesaid, then, and in such case of default, continued as aforesaid, the principal of all the bonds secured hereby, shall, in case a majority in interest of the holders of said bonds, in writing and under seal, so elect, become and be immediately due and payable, anything herein, or in said bonds, contained, to the contrary notwithstanding. A majority of the holders of said

ance or conveyances to carry the same into effect; and any lands which may be acquired for permanent use, in substitution or exchange for any so released, shall be conveyed to the Trustee upon the trusts of this indenture; and no property shall be released or conveyed by the Trustee which, in its judgment, shall be essential and material to secure the holders of said bonds; and the Trustee shall have full power to permit the Railway Company, from time to time, to sell and dispose of any portion of the rolling stock, equipment, materials or machinery, heretofore acquired for the operation of the road and no longer necessary, or which may have become unfit for use, but upon the condition that the money realized from such sale shall be received by the Trustee, or the property so sold be replaced by other property of the same character, which shall then become subject to the operation of this indenture, and which is hereby expressly conveyed to the Trustee, subject to such operation.

First Mortgage
C. M. Ry. Co.

Power of Trustee
to permit Ry. Co. to
dispose of rolling
stock, materials and
machinery.

Eleventh.— It is hereby further agreed that at any public sale of the railway property, premises, rights, interests and franchises hereby conveyed, made by virtue of the powers herein granted, or by judicial authority, for the purpose of enforcing the lien of this indenture, the Trustee or Trustees thereunder, for the time being, may bid for and, if the same be attainable at the prices hereinafter mentioned, purchase and acquire the property so offered for sale, on behalf of the holders of the bonds secured by this indenture, which shall then be outstanding, in proportion to the amount of said bonds, and of the overdue coupons thereunto belonging, by them respectively held; *Provided*, however, that nothing herein contained shall authorize said Trustee or Trustees to bid, on behalf of the holders of said bonds and coupons, a sum exceeding the whole amount of said bonds then outstanding, with the interest accrued thereon, according to the tenor thereof, and the cost and expenses of such sale, for the entire property then held upon the trusts of this indenture, or in amount reasonably proportioned thereto, for any part of the said property.

Provisions in regard
to bidding by Trustee
at foreclosure sale.

Twelfth.— The Trustee shall receive reasonable compensation for the services rendered by it in the discharge of the duties hereby and hereunder imposed upon the Trustee.

Compensation of
Trustee.

First Mortgage
C. M. Ry. Co.

into the possession of the Trustee the whole or any part of the said railway property and premises, rolling stock, lands and appurtenances, rights, interests and franchises, hereby conveyed or intended so to be, for any term or terms, certain or indefinite. The Trustee, upon such surrender and delivery, may, at its option, enter into and upon the premises so surrendered and delivered, and take and receive possession thereof for such term or terms, certain or indefinite, as aforesaid, without prejudicing, however, its right, at any subsequent time, to insist upon and maintain such possession, though beyond such term, whenever it would have been entitled thereto by the terms of this indenture, had no surrender been made; and upon the voluntary surrender and delivery of the said railway property and premises, or any part thereof, as aforesaid, the Trustee shall and will, during the term or terms for which possession shall be taken, and while said property and premises shall remain in its possession, receive the income and revenues thereof, and work, use, manage and employ the same in such lawful way as may be most beneficial, as well to the interests of the public as of the holders of said bonds, in accordance with the provisions of this indenture.

Power of the Trustee
to release real estate.

Tenth.—The Trustee shall have full power, in its discretion, upon the written request of the Railway Company, at any time when it shall not be in default in respect of any of the covenants of this indenture, to convey, by way of release or otherwise, to the Railway Company, or to such other person or persons as it may designate, any lands acquired in any way, or held for sale, for the purposes of stations, depots, shops or other buildings, or for any purposes whatsoever; *Provided*, however, in each of such cases, that, in the judgment of the Trustee, such lands shall not be necessary for the use of the Railway Company; and also to convey, on like request, any lands not occupied by track, or which may become disused by reason of change of location in station houses, shops or other buildings, as the Railway Company may deem expedient to disuse or abandon, and to consent to such change or to any other changes in the location of the track or depots or other buildings of the Railway Company as, in its judgment, shall have become expedient, and to make and deliver the necessary convey-

ance or conveyances to carry the same into effect; and any lands which may be acquired for permanent use, in substitution or exchange for any so released, shall be conveyed to the Trustee upon the trusts of this indenture; and no property shall be released or conveyed by the Trustee which, in its judgment, shall be essential and material to secure the holders of said bonds; and the Trustee shall have full power to permit the Railway Company, from time to time, to sell and dispose of any portion of the rolling stock, equipment, materials or machinery, heretofore acquired for the operation of the road and no longer necessary, or which may have become unfit for use, but upon the condition that the money realized from such sale shall be received by the Trustee, or the property so sold be replaced by other property of the same character, which shall then become subject to the operation of this indenture, and which is hereby expressly conveyed to the Trustee, subject to such operation.

First Mortgage
C. M. Ry. Co.

Power of Trustee
to permit Ry. Co. to
dispose of rolling
stock, materials and
machinery.

Eleventh.— It is hereby further agreed that at any public sale of the railway property, premises, rights, interests and franchises hereby conveyed, made by virtue of the powers herein granted, or by judicial authority, for the purpose of enforcing the lien of this indenture, the Trustee or Trustees thereunder, for the time being, may bid for and, if the same be attainable at the prices hereinafter mentioned, purchase and acquire the property so offered for sale, on behalf of the holders of the bonds secured by this indenture, which shall then be outstanding, in proportion to the amount of said bonds, and of the overdue coupons thereunto belonging, by them respectively held; *Provided*, however, that nothing herein contained shall authorize said Trustee or Trustees to bid, on behalf of the holders of said bonds and coupons, a sum exceeding the whole amount of said bonds then outstanding, with the interest accrued thereon, according to the tenor thereof, and the cost and expenses of such sale, for the entire property then held upon the trusts of this indenture, or in amount reasonably proportioned thereto, for any part of the said property.

Provisions in regard
to bidding by Trustee
at foreclosure sale.

Twelfth.— The Trustee shall receive reasonable compensation for the services rendered by it in the discharge of the duties hereby and hereunder imposed upon the Trustee.

Compensation of
Trustee.

First Mortgage
C. M. Ry. Co.

Term "Trustee"
to include successors.

Removal of Trustee.

Manner of
resignation of
Trustee.

Provisions for
election of new
Trustee by the
bondholders.

Thirteenth.—The term or words, "the Trustee," "said Trustee," and "the said Trustee," as used in this indenture, shall be held and stated to mean the Trustee or Trustees for the time being. And it is mutually agreed that the said Trustee, or any Trustee or Trustees hereafter appointed, may, upon not less than ten (10) days previous notice in writing, to be duly served upon said Trustee or Trustees, be removed by a vote of a majority in interest of the holders of said bonds, cast at any meeting of said bondholders duly convened for such purpose; such notice of removal to be attested by the hands and seals of the Chairman and Secretary of such meeting; such meeting to be called by the President or Secretary of the Railway Company, upon the request of the holders of not less than one million (1,000,000) dollars, par value, of said bonds, and written notice of the time and place of holding the same to be served upon or mailed to each bondholder, at his last known address, not less than thirty (30) days prior to the time of holding such meeting.

Fourteenth.—And said Trustee, or any Trustee or Trustees hereafter appointed, may resign and be discharged of the trust created by this indenture, by giving notice in writing to the Railway Company and to the bondholders, by publication thereof at least six (6) times a week for four (4) successive weeks, in a newspaper published in the City of New York, New York, and in a newspaper published in the City of Denver, Colorado; such resignation not to take effect until at least thirty (30) days after the last publication of such notice, and only upon the due execution of the conveyance or conveyances hereinafter required; and in case of the dissolution of said Trustee, or of its resignation, incapacity to act or removal as Trustee hereunder, it shall be the duty of the Railway Company, or of its President or Secretary, to call a meeting of the holders of the bonds secured or intended to be secured hereby, by publishing a notice, at least six (6) times each week for at least four (4) weeks, in a public newspaper published in the City of New York, New York, and in a public newspaper published in the City of Denver, Colorado; such meeting of the holders of said bonds to be held in the City of New York, not less than ten (10) days after the last publication of each or either

of said notices, for the purpose of filling the place of said Trustee; and a majority in interest of the holders of said bonds, so attending such meeting or legally represented thereat, shall be competent to elect a new Trustee, and shall, at such meeting, proceed to elect a suitable person or persons, or corporation, to act as Trustee or Trustees, to fill such vacancy; and the person or persons, or corporation, so elected, shall immediately upon such election, and upon his, their or its filing with the Railway Company an acceptance in writing of such trust, become vested with all the estate, trust, rights, powers and duties of the said Trustee, party of the second part, as prescribed herein; and thereupon all the powers hereunder, and all the estate, right, title and interest in said premises, of the Trustee, who shall have become incapable, or have resigned, or have been removed, shall wholly cease and determine; but nevertheless, the Trustee or Trustees resigning, or being removed as aforesaid, shall, upon the request in writing of the new Trustee or Trustees, execute and deliver to it, him, or them, all such conveyances and other instruments as shall be fit and expedient, for the purpose of assuring to such new Trustee or Trustees the legal estate in the premises; *Provided*, the expenses of the preparation and execution of such instruments shall be defrayed by the Railway Company, or by the said new Trustee or Trustees, or other parties in interest; and, *provided*, further, that nothing herein contained shall be so construed as to deprive any Trustee, or his or its representatives, of any right to receive such compensation or reimbursement as such Trustee is, or may be, justly entitled to, for any services actually rendered or expenses incurred, under this indenture; and in case of such election of a new Trustee or Trustees, as aforesaid, the Railway Company hereby covenants to make, execute and deliver such other or further instruments, deeds, indentures or assurances, as may be necessary to enable the person or persons, or corporation, so elected, to execute and carry out the trusts hereby created and declared, as fully and perfectly in all respects, as he, they or it, could have executed and carried out the same if originally made the party of the second part to this indenture; and it is hereby declared and agreed that in case the holders of said bonds shall fail or

First Mortgage
C. M. Ry. Co.

Provision for
transfer of trust.

In case bondholders
fail to elect Trustee.

First Mortgage
C. M. Ry. Co.
In case bondholders
fail to elect new
Trustee within 90
days, President of
Ry. Co. shall be
temporary Trustee.

omit to appoint a new Trustee or Trustees, in the manner aforesaid, within ninety (90) days after the incapacity of any Trustee shall occur, or within ninety (90) days after the resignation or removal of any Trustee, the President of the Railway Company shall thereupon become such Trustee, and shall serve as such, and shall be subject to all the duties and be vested with all the powers herein or hereby created, granted and conferred upon the said party of the second part, until a majority in the interest of the holders of the outstanding bonds shall elect a Trustee or Trustees, in the manner aforesaid. It is further expressly agreed that all covenants, stipulations, promises and undertakings herein contained by, or on behalf of the Railway Company, shall bind and be binding upon its successors or assigns, whether so expressed or not.

Limitation of liability
of Trustee.

Fifteenth.—The Trustee shall not be answerable for the default or misconduct of any attorney, clerk or agent, appointed by it in pursuance hereof, if such attorney, clerk or agent be selected with reasonable care, nor for any error or mistake made by it in good faith, but only for gross negligence or wilful default, in the discharge of its duties as such Trustee. The Trustee shall not be individually liable for any debts contracted or any liabilities incurred by it, nor for any damage to persons or property carried or injured, nor for salaries or non-fulfilments of contracts, during any period in which the Trustee shall manage the trust property, upon entry or voluntary surrender as aforesaid, but all such debts and liabilities shall be and constitute a first charge upon the trust funds and property.

Whole issue of bonds
to be immediately
executed and delivered
to Trustee.

Sixteenth.—It is further agreed that the whole issue of said bonds, to be secured hereby, shall immediately, upon the execution of the same by the Railway Company, as aforesaid, be delivered to the Trustee for certification, from time to time, pursuant to the provisions hereof.

Defeasance clause.

Seventeenth.—If the Railway Company shall well and truly pay, or cause to be paid, all the bonds to be issued hereunder, or entitled to the protection of this indenture, and the coupons thereto attached, at the times and in the manner therein specified, and shall well and truly keep and perform the covenants and undertakings herein and hereby required to be kept and performed by it, according to the true

City of New York, in the County and State of New York, personally appeared Frederick P. Olcott and Charles H. P. Babcock, each to me personally known, and known to me respectively as the President and Secretary of the said, The Central Trust Company of New York, and each acknowledged that they executed the foregoing instrument in their respective capacities of President and Secretary of said, The Central Trust Company of New York, as the free and voluntary act of the said Company, and as their own free and voluntary act, for the uses and purposes therein set forth.

And the said Frederick P. Olcott and Charles H. P. Babcock, being each by me duly sworn, did depose and say, each for himself, that the seal affixed to the foregoing instrument is the corporate seal of the said, The Central Trust Company of New York; and that said seal was affixed thereto and said instrument signed by them, respectively, as President and Secretary of said Company, by order of the Board of Directors of said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above mentioned.

CHARLES EDGAR MILLS,

[OFFICIAL SEAL]

*A Commissioner for the
State of Colorado in New York.*

First Mortgage
C. M. Ry. Co.

Affidavit as to
corporate seal and
authority to affix
same.

THE FOREGOING MORTGAGE was recorded as follows:—

COUNTY	DATE	BOOK	PAGE
El Paso	Oct. 17, 1886	68	130
Park	Aug. 18, 1886	31	287
Chaffee	Aug. 18, 1886	43	345
Lake	Aug. 17, 1886	109	1
Pitkin	Aug. 19, 1886	41	156
Eagle	Aug. 17, 1886	19	489
Garfield	Aug. 20, 1886	1	138

Recording of
foregoing Mortgage.

The C. M. Ry. Co.

614

First Mortgage
C. M. Ry. Co.

THE CENTRAL TRUST COMPANY OF NEW YORK.

By F. P. OLCOTT,
President.

[SEAL]

Attest :

C. H. P. BABCOCK,
Secretary.

Acknowledgment
by Ry. Co.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

On this 31st day of July, 1886, before me, A. S. Welch a Notary Public within and for said county, in said State, personally appeared James J. Hagerman and Charles A. Lansing, each to me personally known, and known to me respectively as the President and the Secretary of the said, The Colorado Midland Railway Company, and each acknowledged that they executed the foregoing instrument in their respective capacities of President and Secretary of the said, The Colorado Midland Railway Company, as the free and voluntary act of the said Company, and as their own free and voluntary act, for the uses and purposes therein set forth.

Affidavit as to
corporate seal and
authority to affix
same.

And the said James J. Hagerman and Charles A. Lansing, being each by me duly sworn, did depose and say, each for himself, that the seal affixed to the foregoing instrument is the corporate seal of the said, The Colorado Midland Railway Company, and that said seal was affixed thereto, and said instrument signed by them, respectively, as President and Secretary of said Company, by order of the Board of Directors of said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year above mentioned.

A. S. WELCH,
Notary Public.

[NOTARIAL SEAL]

Acknowledgment
by Trust Co.

STATE OF NEW YORK, }
COUNTY AND CITY OF NEW YORK, } ss.

On this 11th day of August, 1886, before me, Charles Edgar Mills, a Commissioner of Deeds for the State of Colorado, within and for the State of New York, residing at the

City of New York, in the County and State of New York, personally appeared Frederick P. Olcott and Charles H. P. Babcock, each to me personally known, and known to me respectively as the President and Secretary of the said, The Central Trust Company of New York, and each acknowledged that they executed the foregoing instrument in their respective capacities of President and Secretary of said, The Central Trust Company of New York, as the free and voluntary act of the said Company, and as their own free and voluntary act, for the uses and purposes therein set forth.

First Mortgage
C. M. Ry. Co.

And the said Frederick P. Olcott and Charles H. P. Babcock, being each by me duly sworn, did depose and say, each for himself, that the seal affixed to the foregoing instrument is the corporate seal of the said, The Central Trust Company of New York; and that said seal was affixed thereto and said instrument signed by them, respectively, as President and Secretary of said Company, by order of the Board of Directors of said Company.

Affidavit as to
corporate seal and
authority to affix
same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above mentioned.

CHARLES EDGAR MILLS,

[OFFICIAL SEAL]

*A Commissioner for the
State of Colorado in New York.*

THE FOREGOING MORTGAGE was recorded as follows:—

Recording of
foregoing Mortgage.

COUNTY	DATE	BOOK	PAGE
El Paso	Oct. 17, 1886	68	130
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Garfield	Aug. 20, 1886	1	138

FIRST MORTGAGE

ON

JEROME PARK COAL BRANCH

AND

SECOND MORTGAGE

ON MAIN LINE OF

THE COLORADO MIDLAND RAILWAY CO.

Dec. 10, 1887.

Parties.

THIS INDENTURE, made and entered into this Tenth day of December, in the year one thousand eight hundred and eighty-seven, by and between THE COLORADO MIDLAND RAILWAY COMPANY, hereinafter termed "The Railway Company," a corporation duly organized and existing under and by virtue of the laws of the State of Colorado, party of the first part, and the CENTRAL TRUST COMPANY OF NEW YORK, hereinafter termed "the Trustee," or "the said Trustee," a corporation duly organized and existing under and by virtue of the laws of the State of New York, party of the second part, WITNESSETH, that

Authorized lines.

WHEREAS, The Railway Company has, under and by virtue of the laws of the State of Colorado, and of its certificate of incorporation and the several amendments thereto, become entitled to survey, locate, construct, maintain and operate a railway and telegraph line from the City of Colorado Springs, in El Paso County, Colorado, through the Ute Pass into South Park, and by the most eligible route to Leadville; also from Leadville, westward, to the town of Aspen, and through Pitkin, Eagle and Garfield Counties, by the most eligible route, to the western boundary of the State of Colorado, with various branches, in its amended certificate of incorporation particularly described, among which is a branch from a point on the main line near the confluence of Roaring Fork Creek and

Four Mile Creek, Garfield County, thence up Four Mile Creek and Edgerton Creek, in a general southerly or southeasterly direction to North Thompson Creek; and

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

WHEREAS, The Railway Company has, in pursuance of the authority to it granted, as aforesaid, constructed in part that portion of its said line of railway and telegraph, extending from the City of Colorado Springs, through the Ute Pass, to the City of Leadville, and thence westward to the town of Aspen and to the mouth of Elk Creek on the Grand River, in Garfield County, and has also constructed said branch line from a point near the junction of said Roaring Fork Creek and Four Mile Creek, running in a general southerly or southeasterly direction to a point near North Thompson Creek, which said branch line is commonly known as the "Jerome Park Coal Branch," and proposes to equip, maintain and operate the above described line of railway, and desires to borrow money for the purpose of paying for such construction and equipment, and of providing for the maintenance and operation thereof; and

Constructed lines
including "Jerome
Park Coal Branch"
and desire to borrow
money to pay for
construction and
equipment of said
branch.

WHEREAS, At a meeting of the stockholders of the Railway Company, duly held at its office, in the City of Colorado Springs, Colorado, on the seventh day of December, 1887, in pursuance of a call for that purpose duly made by the president, at which meeting stockholders representing more than a majority of the capital stock of the Railway Company were present in person or represented by proxy, the following preamble and resolutions were unanimously adopted:

Meeting of
stockholders.

"WHEREAS, this company has, in pursuance of the authority granted it by the laws of the State of Colorado, and of its certificate of incorporation and the several amendments thereto, located and in part constructed, that portion of its line of railway and telegraph extending from the City of Colorado Springs to the City of Leadville, and from the City of Leadville to the mouth of Elk Creek, on the Grand River, Garfield County, and from a point known as "Aspen Junction," near the confluence of Frying Pan Creek and Roaring Fork Creek, to and through the town of

Preamble to
resolutions
of stockholders

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

Aspen, to a point on Smuggler Mountain, said last named line being known as the "Aspen Branch," and from a point known as "Cardiff," near the confluence of Roaring Fork Creek and Four Mile Creek, to a point near North Thompson Creek, in Jerome Park, Pitkin County, said last named line being known as the "Jerome Park Coal Branch," and desires to secure means, in addition to those heretofore provided by the sale of its stock and its First Mortgage Bonds, in order to complete the construction of, to equip and to put in operation all of said line of railway above described,

Resolution
authorizing the issue
of \$1,500,000 of
mortgage bonds.

NOW THEREFORE, be it resolved that, for the purpose of securing the means required, for the construction and the completion of the said line of railway above described, and generally to improve the condition of the company's property lying along the same; and to procure therefor the necessary and usual appurtenances and facilities of railway and telegraph lines, the President and Secretary of this company be, and they are hereby, authorized to execute, under the seal of this company, and to negotiate and deliver, for the purposes hereinbefore set forth, mortgage bonds of this company to the amount of one million five hundred thousand dollars (\$1,500,000), such bonds to be in the form of coupon bonds, to be for the sum of one thousand dollars (\$1,000) each, to mature thirty years from the first day of February, 1888, to bear interest at the rate of six (6) per cent. per annum, payable in semi-annual coupons, maturing on the first day of February and the first day of August of each year and to be payable, principal and interest, in the City of New York, in gold coin of the United States, of or equal to the present standard; and be it also

Resolution
authorizing the
execution of mortgage
to secure the said
bonds.

Resolved, That for the purpose of securing the prompt payment of said bonds, in accordance with the terms thereof, the President and Secretary be, and they are hereby authorized to execute, under the seal of this Company, in such form as may be advised by counsel, and to deliver to the Central Trust Company of New York, as Trustee, a mortgage or Deed of Trust, in eight or more

originals, covering and conveying all the right, title, interest, claim or demand, which the Railway Company now has or may hereafter acquire, in and to the corporate franchises to survey, locate, construct, maintain, use and operate the line of railway and telegraph above described, namely: from Colorado Springs to Leadville, and from Leadville to Elk Creek, and said Aspen Branch and said Jerome Park Coal Branch, and the said line of railway and telegraph above described, now constructed, or to be constructed, the same being two hundred and seventy miles of railway more or less, exclusive of sidings, including also all of the rolling stock, rails, ties, timber, furniture, fuel and other material, supplies and personal property, of every nature whatsoever, now owned by the Company, or which may hereafter be acquired by it, for or in respect of the construction, maintenance or operation of said located line of railway and telegraph above described, or which may be purchased or acquired with money arising from the sale of the bonds, to be secured by said mortgage or Deed of Trust; that such mortgage or Deed of Trust may be conditioned to cover also any extension or branch, from any point on the line of railway hereinbefore described, to the extent to which the proceeds of the bonds secured by such mortgage or Deed of Trust, shall be used in the construction of such extension or branch; subject, however, as to so much of said line of railway and telegraph above described, as lies between the City of Colorado Springs and the City of Leadville, and between the City of Leadville and the Mouth of Elk Creek, on the Grand River in Garfield County, and as to said "Aspen Branch," and subject also as to all rolling stock now owned or which may be hereafter acquired by the Railway Company, for the operation of the line of railway above described, to the prior lien of the Deed of Trust dated July 15, 1886, and given by the Railway Company to secure its First Mortgage Bonds, to the amount of six millions two hundred and fifty thousand dollars (\$6,250,000); and

Resolved, That said bonds and said mortgage or Deed of Trust shall, in other respects than those above set forth,

Second Mortgage
C. M. Ry. Co.
Including First
Mortgage on Jerome
Park Coal Branch.

Property to be covered
by said mortgage.

Subject to first
mortgage upon main
line, Aspen branch
and rolling stock.

No foreclosure until
after Feb. 1, 1891.

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

be of such form and to such effect as the president of this Company, under the advice of counsel, shall determine and approve, *provided*, however, that said bonds and said mortgage or Deed of Trust shall be conditioned to the effect that there shall be no enforced collection, by foreclosure of said mortgage or Deed of Trust, legal process or otherwise, of any interest accruing upon any of said bonds, until after the first day of February, 1891; and

Like resolutions
passed by directors.

WHEREAS, Resolutions to the same effect, and authorizing the execution and delivery of such bonds and mortgage or Deed of Trust, as aforesaid, have been duly passed and adopted by the Board of Directors of the Railway Company; and

This indenture
approved by
directors.

WHEREAS, This indenture has also been duly approved by resolution of said Board of Directors; and

Proposed issue
of bonds.

WHEREAS, In pursuance of said resolutions, and of the authority in it vested by the laws of the State of Colorado, the Railway Company has determined to issue said bonds, and to secure the payment of the same, principal and interest, by this mortgage or Deed of Trust, such bonds to stand equally and ratably secured hereby, without any preference whatever, arising from the time of issuing or otherwise, and in the manner and on the conditions herein provided, and each of said bonds to be executed by and under the seal of the Railway Company, signed and attested by its President and Secretary, and the interest coupons to be authenticated by and with the name of its Treasurer; and each of said bonds being so signed, sealed, executed and authenticated to be countersigned by the Trustee, which countersigning or certifying shall be conclusive, and the only conclusive evidence that such bond is secured by this indenture; and

Form of bonds.

WHEREAS, The President of the Railway Company has determined, as authorized by said resolutions, that said bonds shall be substantially in the following form:

SIX PER CENT., MORTGAGE, THIRTY YEARS, GOLD BOND.

Total authorized issue . . . \$1,500,000

FIRST MORTGAGE ON JEROME PARK COAL
BRANCH.Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.
Form of bond.

SECOND MORTGAGE ON MAIN LINE.

UNITED STATES OF AMERICA.

No. _____

\$1,000

THE COLORADO MIDLAND RAILWAY
COMPANY.

For value received, The Colorado Midland Railway Company, a corporation of the State of Colorado, promises to pay to the bearer of this bond, or if registered, to the registered owner thereof, at its agency, in the City of New York, on the first day of February, nineteen hundred and eighteen, one thousand dollars, in gold coin of the United States, of, or equal to the present standard, with interest thereon in like gold coin, at the rate of six per cent. per annum, payable at said agency, semi-annually, on the first days of February and August of each year, upon presentation and surrender of the annexed interest coupons; PROVIDED, HOWEVER, and the holder of this bond hereby agrees, that there shall be no enforced collection of any interest accruing hereon, by foreclosure of the mortgage or Deed of Trust securing the same, legal process or otherwise, until after the first day of February, 1891. This bond is one of a series of mortgage bonds, each of the denomination of one thousand dollars, numbered consecutively from 1 to 1,500, inclusive. The holder hereof is entitled to the security of a mortgage or Deed of Trust, dated December, 1887, executed by the said Railway Company to the Central Trust Company of New York, as Trustee, and duly recorded and conveying to said Trustee, all of the railway property and franchises of said Railway Company, as specified in said mortgage or Deed of Trust, belonging or appertaining to so much of its main line of railway as lies, or shall hereafter be constructed, between

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.
Form of bond.

Colorado Springs and the mouth of Elk Creek, Garfield County, and the "Aspen Branch" and the "Jerome Park Coal Branch"; SUBJECT, HOWEVER, as to the said main line of railway and the appurtenances thereto, and as to said Aspen Branch and the appurtenances thereto, and as to all rolling stock now owned, or which may hereafter be acquired by said Railway Company, for the operation of the said line of railway above described, to the prior lien of a Deed of Trust, dated July 15, 1886, and given to secure the first mortgage bonds of said Railway Company, to the amount of six million, two hundred and fifty thousand dollars.

The aggregate issue and certification of bonds under said mortgage or Deed of Trust, first above mentioned, is limited, as provided therein, to one million five hundred thousand dollars. If default shall be made in the payment of any semi-annual instalment of interest, when the same shall become due and be demanded, and such default shall continue for six months after such demand, the principal of this bond shall become due and payable, in the manner provided in said mortgage or Deed of Trust first above mentioned; *provided, however*, and the holder of this bond hereby agrees that in no event shall this right of declaring the principal due be exercised until after the first day of February, 1891. Said Railway Company and all of its property subject to said prior lien, is liable to pay this bond; but stockholders are not individually liable thereon, nor in respect thereto. Said Railway Company hereby waives the benefit of any extension, stay or appraisement laws now existing, or that may hereafter exist. This bond is redeemable at par, at the pleasure of the Railway Company, as provided in said mortgage or Deed of Trust first above mentioned. This bond shall pass by delivery, unless registered, and if registered, by transfer on the books of said Railway Company, at its agency in the City of New York. If registered, no transfer, except on said books shall be valid, unless the last transfer shall have been to bearer, which shall restore transferability by delivery; but this bond shall continue subject to successive

registrations and transfers to a party named, or to bearer, as aforesaid, at the option of each holder. This bond shall not become obligatory upon said Railway Company until the certificate indorsed hereon shall be signed by said Trustee.

Second Mortgage
C. M. Ry. Co
including First
Mortgage on Jerome
Park Coal Branch.
Form of bond.

IN WITNESS WHEREOF, the said The Colorado Midland Railway Company has caused its corporate seal to be affixed hereto, and the same to be subscribed by its President and attested by its Secretary this first day of February, 1888, and the annexed interest coupons to be executed with the engraved signature of its Treasurer.

THE COLORADO MIDLAND RAILWAY COMPANY.

By

President.

Attest:

Secretary.

[FORM OF EACH INTEREST COUPON.]

\$30.00.

No.

THE COLORADO MIDLAND RAILWAY COMPANY will pay the bearer, at its fiscal agency, in the City of New York, thirty dollars, in gold coin of the United States of America, on the first day of _____, being six months' interest on this bond.

Treasurer.

[FORM OF TRUSTEE'S CERTIFICATE ENDORSED ON EACH BOND.]

THE CENTRAL TRUST COMPANY OF NEW YORK hereby certifies that the within bond is one of the bonds issued in conformity with and described in the mortgage or Deed of Trust first mentioned within.

THE CENTRAL TRUST COMPANY OF NEW YORK,

Trustee.

By

President.

AND, WHEREAS, It is further agreed by the Railway Company, as a covenant and condition of this mortgage or

Application of
proceeds of bonds.

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.
Purposes for which
bonds hereunder
may be certified
and manner of
certification on
application of
Ry. Co.

Deed of Trust and of the certification and issue of said bonds to it by the Trustee, that all and singular of said bonds so to be certified and issued, shall be faithfully applied to the legitimate expenses and cost of the location, construction, improvement and maintenance of its said line of railway and telegraph above described, namely, lying between the City of Colorado Springs and the City of Leadville, and between the City of Leadville and the mouth of Elk Creek, Garfield County, and said "Aspen Branch" and said "Jerome Park Coal Branch," or to extensions thereof, or spurs therefrom, and to the procuring of equipment therefor, and to the other legitimate and necessary expenses of the railway, incurred in connection with, or in consequence of, the survey, location, construction, maintenance or operation of said lines of railway above described, or of extensions thereof or spurs therefrom, and shall be certified by the Trustee and delivered to the Railway Company or upon its order. But it is expressly agreed, for the guidance and protection of the Trustee in the certification and delivery of bonds hereunder, that bonds shall be certified by the Trustee and delivered to the Railway Company, or upon its order, only upon the written application of the Railway Company, expressed through a resolution of its Board of Directors or Executive Committee, adopted at a regular meeting, or at a special meeting called for that purpose, wherein it shall be stated what amount of bonds are required at that time, and the purpose for which the same are required, and which resolution, duly certified by the Secretary or Assistant-Secretary of the Railway Company, and under its corporate seal, shall be full authority and protection to the Trustee, in certifying and delivering said bonds; and no duty is imposed upon the Trustee to look behind such resolution before certifying said bonds and delivering the same. No bond to be issued under the provisions of this mortgage or Deed of Trust by the Railway Company, shall be obligatory upon it, until the Trustee shall duly sign a certificate endorsed thereon, substantially in the form hereinbefore described.

Granting clause.

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Railway Company, party of the first

part, in consideration of the premises, and of one dollar to it in hand paid by the said Trustee, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the punctual payment of the principal and interest of the bonds aforesaid, to be issued, as hereinbefore mentioned, hath granted, bargained, sold, assigned, transferred, set over, released, conveyed and confirmed, and by these presents does grant, bargain, sell, assign, transfer, set over, release, convey and confirm unto the Trustee, party of the second part, and to its successor or successors in trust herein, all the right, title, interest and claim or demand whatsoever, which the Railway Company now has, or is entitled to, or which it shall or may at any time hereafter acquire, by or on account of its certificate of incorporation, or any amendment or amendments thereto or otherwise, of, in and to the corporate franchise to survey, locate, construct, maintain, use and operate the line of railway and telegraph, hereinbefore particularly described, namely: from the City of Colorado Springs to the City of Leadville, and from the City of Leadville to the mouth of Elk Creek, on the Grand River, Garfield County, and from a point known as "Aspen Junction," near the confluence of Frying Pan Creek and Roaring Fork Creek, to and through the town of Aspen, to a point on Smuggler Mountain, said last named line being known as the "Aspen Branch," and from a point known as "Cardiff," near the confluence of Roaring Fork Creek and Four Mile Creek, to a point near North Thompson Creek, Pitkin County, said last named line being known as the "Jerome Park Coal Branch," together with its said railways and lines of railway, located and to be located, between said points, and now constructed, or in contemplation, or in process of construction, and hereafter to be completed, and all its right, title and interest in and to the line of telegraph between said points, being in all two hundred and seventy (270) miles of railway, more or less, and all the rolling stock and equipment of whatever nature or kind, owned and hereafter to be owned for the purpose of operating said line of railway and tele-

Second Mortgage
C M Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

Description of
franchises and
property mortgaged.

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

graph above particularly described or purchased with the proceeds of said bonds; and also all the lands, tenements and hereditaments acquired or appropriated, or which may hereafter be acquired or appropriated for the purpose of right of way for said line of railway above described, and all the easements or appurtenances, thereunto belonging, or in any way appertaining, and all railways, ways and rights of way, depot grounds, tracks, bridges, viaducts, culverts, fences and other structures; engine-houses, freight-houses, car - houses, wood - houses, ware - houses, machine-shops, work-shops, superstructures and erections, whether now in existence, or hereafter at any time acquired for the use of, or in connection with said line of railway above described, also all rails, ties, chairs, machinery, tools, implements, fuel and materials whatsoever, for or in respect of the constructing or replacing of said line of railway and telegraph above described, or any part thereof, whether now held or owned, or hereafter to be acquired by the Railway Company, together with all equipment and appurtenances whatsoever, thereunto belonging, whether now held or hereafter acquired; and all replacements and renewals and all franchises connected with, or belonging to, said line of railway and telegraph above described, or to the construction, maintenance or use thereof, now held or hereafter to be acquired by the Railway Company, and all corporate franchises of any nature, relating to said line of railway and telegraph above described, which are now, or may hereafter be possessed or exercised by the Railway Company, together with all and singular the endowments, income, advantages, tenements, hereditaments and appurtenances to the said above described line of railway and telegraph belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, tolls, incomes, rents, profits and issues thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, present or prospective, of the Railway Company, in and to the said line of railway and telegraph above described, and every part of the same, and every parcel thereof, with the

appurtenances, subject, however, to the prior lien of said Deed of Trust, dated July 15, 1886.

TO HAVE AND TO HOLD all and singular the above described premises, property rights, franchises and appurtenances, subject to said prior lien, to the Trustee, party of the second part, its successor or successors in trust, to the only proper use and behoof of the Trustee, its successor or successors; it being, however, declared to be the true intent and meaning of these presents that the Railway Company, party of the first part, shall and doth convey, to the Trustee, party of the second part, subject to said prior lien, all and all manner of franchises, of every kind and description however derived, and all manner of real estate, or interest therein, and all manner of personal property, of whatever nature or description the same may be, at the date of these presents owned or possessed by the Railway Company, or which may, at any time hereafter, during the continuance of this trust, be acquired by the Railway Company, and which are a part of, or belong to, or are necessary to the construction or maintenance of its said line of railway and telegraph lying between the City of Colorado Springs and the City of Leadville, and between the City of Leadville and the mouth of Elk Creek, on the Grand River, Garfield County, and between a point on the main line known as "Aspen Junction," near the confluence of Frying Pan Creek and Roaring Fork Creek and a point at the foot of Smuggler Mountain, Pitkin County, (known as the "Aspen Branch,") and between a point on the main line known as "Cardiff," near the confluence of Roaring Fork Creek and Four Mile Creek, Garfield County, and a point on North Thompson Creek, Pitkin County, near where the lower coal seam crosses said creek (known as the "Jerome Park Coal Branch"), and no more, the same being two hundred and seventy miles of railway, more or less, and it being distinctly understood and agreed that the lien of this Deed of Trust shall extend to and cover only its said line of railway and telegraph above particularly described, and shall not in any manner affect, or become a lien upon any other line, or portion of line, of railway

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.
Habendum clause.

What property
included in mortgage.

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

Mortgage to equally
secure all bonds
issued hereunder.

Possession of
mortgagor until
default.

Covenants of Ry. Co.

nor telegraph which the Railway Company may hereafter construct, or in any manner acquire; *in trust, nevertheless*, for the uses and purposes herein declared and expressed, as follows, to wit:

First.— To secure the payment of the bonds of the Railway Company, to be issued as hereinbefore recited, and for the equal *pro rata* benefit of all and every of the persons or corporations which shall at any time be or become the holders of said bonds, subject to the terms, provisions, covenants, and stipulations in said bonds contained, without any preference or priority of any one bond over another, by reason of priority in time of the issuance or negotiation thereof, or otherwise.

Second.— Until by the express condition of this indenture, the right of entry shall accrue to the Trustee, the Railway Company, its successors or assigns, shall be permitted to possess, manage, use and enjoy, all and singular, the said property, including the said railway or railways, with their appurtenances, equipment, and their said franchises, and to take and use the rents, incomes, profits, tolls and issues thereof, in the same manner and with the same effect as if this indenture had not been made.

Third.— And the Railway Company, in consideration of the premises, covenants, promises and agrees:

That, having possession as aforesaid, it will well and truly pay and discharge, or cause to be paid and discharged, each and every tax and assessment, or other liability and governmental charge, which may, from time to time, be lawfully levied or imposed, by competent authority, upon the said railway property, premises, or upon any part, thereof, the lien whereof might or could be held to be superior to the lien of this indenture, so that the priority of this indenture shall, at all times, be duly maintained and preserved, and will at all times keep insured, in good, safe and reliable insurance companies, its rolling stock, tools and machinery, buildings, bridges and other structures, erected or to be erected by it, or on its said premises, and all other such property, provided for use and used by it, in connection with the line of railway or telegraph

herein described and hereby conveyed, as is usually insured by railway companies, and in the same manner and to the same extent; and will at all times diligently preserve all the rights and franchises to it granted and upon it conferred by the laws of the State of Colorado; and will at all times, maintain, preserve and keep, all and singular, the said line of railway and telegraph now owned or possessed, or which may hereafter be constructed or acquired by it, and extending from Colorado Springs to Leadville, and from Leadville to the mouth of Elk Creek, and said Aspen Branch and said Jerome Park Coal Branch, and every part thereof, with the rolling stock, fixtures, and appurtenances, and every part and parcel thereof, in good repair, working order and condition, and fully supplied with motive power, rolling stock and equipment; and shall and will, from time to time, make all needful and proper repairs, renewals and replacements, useful alterations, additions and improvements, so that the traffic and business of said line of railway and telegraph, and of every part thereof, shall at all times be done with safety and expedition.

Fourth.— In case default shall be made by the Railway Company, its successors or assigns, in the payment of the principal of any of the bonds secured by this indenture, according to the tenor and effect of such bonds, and such default shall continue for the period of six months after payment of the same shall have been duly demanded in writing of the Railway Company, or at its agency in the City of New York; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing on any of the bonds secured by this indenture, prior to the first day of February, 1891, according to the tenor and effect of the coupons annexed to such bonds, and such default shall continue beyond the said first day of February, 1891, and payment of such interest so in default shall have been duly demanded in writing of the Railway Company, or at its said agency in the City of New York; or in case default shall be made by the Railway Company, its successors or assigns, in the

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

On default continued
to Feb. 1, 1891, or
thereafter for six
months, Trustee may
enter and take
possession.

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

payment of any interest accruing on any of the bonds secured by this indenture on or subsequent to the said first day of February, 1891, according to the tenor and effect of the coupons annexed to such bonds, and such default last named shall continue for the period of six months after payment of the same shall have been duly demanded in writing of the Railway Company, or at its said agency in the City of New York, or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any taxes, assessment or governmental charge, lawfully levied and imposed upon the said railway property and premises, or any part thereof, and such default shall continue for the period of six months after such taxes, assessment or governmental charge shall become due and payable; or in case default shall be made by the Railway Company, its successors or assigns, in keeping insured its rolling stock, tools and machinery, buildings, bridges and other structures, as aforesaid, and such default shall continue for a period of ninety (90) days after demand of performance by the Trustee herein; or in case default shall be made by the Railway Company, its successors or assigns, in the due observance of any other of its covenants, promises or agreements herein required to be done, performed or kept by it, and such default shall continue for the period of one year after demand of performance by the Trustee herein, then, and in each and every such case of default, continued as aforesaid, the said Trustee, if it shall elect so to do, may, and if requested in writing by the holders of two-thirds of the bonds secured hereby and outstanding at the time of such default (and upon being properly indemnified) shall, by its attorney or attorneys, agent or agents, enter into and upon, all and singular, the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, and each and every part thereof, excluding therefrom the Railway Company, its agents, servants and employees, and have and hold the same; use, operate, manage and control said railway; regulate tolls and the transportation of passengers and freight thereon; and make from time to

time, at the expense of the trust estate, all repairs and replacements and such useful alterations, additions and improvements thereto, as well in respect to the rolling stock or equipment as to the railway and its appurtenances, and conduct the business thereof by its attorneys, agents, superintendents, or managers, as may seem to it judicious and for the best interests as well of the public as of the holders of said bonds; and upon such entry, it shall be lawful for the Trustee, its agents or attorneys, from time to time, to insure or keep insured, at the expense of the trust estate, the rolling stock, tools and machinery, buildings, bridges and other structures, erected and provided for use in connection with said railway, whereof it shall become possessed, in the same manner and to the same extent as the Railway Company might have done; and to collect and receive all tolls, freights or incomes, rents, issues and profits of the same, and every part thereof, and after deducting the expense of operating said railway and conducting the business thereof, and all repairs, replacements, alterations and additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and other proper charges upon the said premises and property, or any part thereof, as well as a just and reasonable compensation for its own services and the services of all attorneys, agents, clerks, servants, and other employees, by it properly engaged or employed, to apply the moneys arising as aforesaid, to the payment of the interest in arrear, if any, or which shall after such entry become due and payable, on the outstanding bonds secured hereby, in the order in which such interest shall become due and payable, ratably to the person or persons holding the coupons therefor, without any discrimination or preference between them on account of the date or dates of the maturing of said bonds, or the times of the actual issue thereof, and according to the rate in said bond provided; and if, after paying all such interest, a surplus shall remain, such surplus shall be applied to the satisfaction of the principal of said bonds, at the time due and unpaid, ratably, without discrimination or preference as aforesaid.

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.
Power of sale
on default.

Fifth.—In case default shall be made by the Railway Company, its successors or assigns, in the payment of the principal of any of said bonds, as aforesaid, and such default shall continue for the period of six months after demand in writing made for payment as aforesaid; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest upon any of said bonds, accruing before the first day of February, 1891, and such default shall continue after the first day of February, 1891, and after demand in writing made for payment, as aforesaid; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing upon any of said bonds, on or subsequent to said first day of February, 1891, and such default last named shall continue for the period of six months after demand in writing made for payment, as aforesaid, it shall be lawful for the said Trustee, after entry, as aforesaid, or after other entry, or without entry, by its attorney or attorneys, agent or agents, if it shall elect so to do, to sell and dispose of, and if requested in writing by the holders of two-thirds of the bonds secured hereby, the Trustee shall sell and dispose of, all and singular the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, or from time to time, as it shall deem proper, of so much thereof as may be sold separately without material injury to the parties interested, and be sufficient to pay the amount due on such bonds, then outstanding, for principal and interest, according to the terms thereof, together with the costs and expenses of such sale, and of all right, title, interest, claim and demand whatsoever, benefit, equity of redemption and statutory right of redemption of the Railway Company, its successors or assigns, of, in and to the same, or so much thereof as may be sold, and every part thereof, at public auction, at such place in the City of New York, New York, or in the City of Denver, Colorado, as it may designate, and at such time and upon such terms as may be specified in the notice of sale, to be given, as hereinafter provided, for the highest

and best price the same will bring in cash. Before making such sale, the Trustee shall give notice of the time and place, when and where, and of the terms upon which the same is to be made, which notice shall contain a description of the premises and property to be sold, and shall be published not less than six times a week, for six weeks next preceding the time specified for such sale, in at least one newspaper published in the City of New York, New York, and in at least one newspaper published in the City of Denver, Colorado, with the right to adjourn such sale from time to time, in the discretion of the Trustee, by giving reasonable notice of such adjournment or adjournments, by advertisement appended to such notice of sale, and after so adjourning, to make such sale at the time and place to which the same may have been adjourned; and upon such sale being made, and upon receiving full payment therefor, to make, execute and deliver to the purchaser or purchasers at such sale, good and sufficient deed or deeds of conveyance for the property and franchises so sold; which sale, made as aforesaid, shall be a perpetual bar, both in law and equity, against the Railway Company, and all other persons lawfully claiming or to claim the above described railway property and premises, rights, interests and franchises so sold, or any part thereof, or any lien upon or interest therein, by, through or under the Railway Company; and after deducting from the proceeds of such sale a just allowance for all the expenses thereof, including reasonable attorney and counsel fees, and all other expenses, advances or liabilities, which may have been made or incurred by the Trustee, in operating said railway, or in maintaining the same, or in managing its business, while in possession thereof, and all payments which may have been made by it for taxes, or assessments, or other proper charges upon the said railway property and premises, rights, interests and franchises, or any part thereof, including its own reasonable compensation for its services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be, at the time, outstanding and unpaid, whether the same shall or

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

Second Mortgage
C. M. Ry. Co.
including First
Mortgage on Jerome
Park Coal Branch.

shall not have previously become due, and of the interest which shall have accrued, at that time, on the said principal, and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principal and such accrued and unpaid interest; and if, after satisfaction thereof, as aforesaid, a surplus shall remain, shall pay the same over to the Railway Company, its successors or assigns.

On default continued
as aforesaid Trustee
may, on written
request of holders of
two-thirds of the
bonds, begin
foreclosure
proceedings or apply
for the appointment
of a receiver.

Sixth.— In case default shall be made by the Railway Company, its successors or assigns, in the payment of the principal of any of said bonds, as aforesaid, and such default shall continue for the period of six months after demand in writing made for payment, as aforesaid; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing upon any of said bonds, prior to the first day of February, 1891, and such default shall continue after said first day of February, 1891, and after demand in writing made for payment as aforesaid; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing upon any of said bonds, on or subsequent to the said first day of February, 1891, and such default, last named, shall continue for the period of six months after demand in writing made for payment, as aforesaid, the said Trustee, if it shall elect so to do, may, and if requested in writing by the holders of two-thirds of the bonds secured hereby, and then outstanding (and upon being properly indemnified), shall apply to some Court having proper jurisdiction in the premises, for foreclosure and sale of the mortgaged premises, property, rights, interests and franchises, and the appointment in the meantime of a Receiver for the same under this indenture, or (as an alternative of entry in that behalf, hereinbefore given) for the appointment of a Receiver, without applying for a foreclosure or sale of the mortgaged premises; and in either case, the Trustee shall have the right to nominate to the Court the person to be appointed Receiver.

Declaring principal
due.

Seventh.— In case default shall be made by the Railway

Company, its successors or assigns, in the payment of any interest accruing upon any of the said bonds, prior to the first day of February, 1891, and such default shall continue after said first day of February, 1891, and after demand in writing made for payment as aforesaid, or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing upon any of said bonds, on or subsequent to said first day of February, 1891, and such default, last named, shall continue for the period of six months after demand in writing made for payment as aforesaid, then, and in either of such cases of default continued as aforesaid, the principal of all of the bonds secured hereby, shall, in case two-thirds in amount of the holders of said bonds, in writing and under seal, so elect, be and become immediately due and payable, anything herein or in said bonds contained to the contrary notwithstanding. Two-thirds of the holders of said bonds may, in writing, under their hands and seals, declare, or instruct the Trustee to declare, the said principal to be due, as aforesaid, or waive, or instruct the Trustee to waive, the right so to declare the principal due by reason of such default or defaults, upon such terms and conditions as such two-thirds in amount of the holders of said bonds shall deem proper; PROVIDED, That no such action of said bondholders, or of the Trustee, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

Second Mortgage
C. M. Ry. Co.
Including First
Mortgage on Jerome
Park Coal Branch.

Eighth.—The Railway Company hereby covenants and agrees, to and with the said Trustee, on behalf and for the benefit of the holders of the bonds secured hereby, that it will, from time to time, and at all times, upon reasonable request, make, execute, acknowledge and deliver, at its own expense, all such further acts, deeds, conveyances and assurances in law for the better assuring unto the Trustee, and its successor or successors in trust hereby created, upon the trusts and for the purposes herein expressed or intended, all and singular the property, premises, railway equipment and appurtenances, rights, interests and franchises hereby mortgaged or conveyed in trust, or intended

Covenant of further
assurance

Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.

or purported so to be, whether now owned or possessed by or vested in the Railway Company, or that may be subsequently acquired or vested in it, as by the Trustee or its counsel earned in the law, shall be reasonably devised, advised or required; and the Railway Company shall furnish to the Trustee, from time to time and at all times, upon its reasonable request in writing, a full and true inventory of all the movable property appertaining to said line of railway, hereinbefore described and hereby conveyed, and to the operation thereof, and which is transferred or intended to be transferred by this indenture; but no failure to demand or furnish such inventory shall impair or affect the operation of this indenture, upon any property herein agreed or intended to be transferred.

Provision for
voluntary surrender
by Ry. Co. to Trustee
without default.

Ninth.—The Railway Company may, at any time hereafter, before the full payment of said bonds, and whenever it shall deem it expedient for the better security of said bonds, although such default may not have occurred as to entitle the Trustee to enter into possession of the whole or any part of the said railway property, surrender and deliver into the possession of the Trustee the whole or any part of the said railway property and premises, rolling stock, lands and appurtenances, rights, interests and franchises, hereby conveyed or intended so to be, for any term or terms certain or indefinite. The Trustee, upon such surrender and delivery, may, at his option, enter into and upon the premises so surrendered and delivered, and take and receive possession thereof for such term or terms, certain or indefinite, as aforesaid, without prejudicing, however, its right, at any subsequent time, to insist upon and maintain such possession, though beyond such term, whenever it would have been entitled thereto by the terms of this indenture, had no surrender been made; and upon the voluntary surrender and delivery of the said railway property and premises or any part thereof as aforesaid, the Trustee shall and will, during the term or terms for which possession shall be taken, and while said property and premises shall remain in its possession, receive the income and revenues thereof, and work, use, manage and employ the same in

such lawful way as may be most beneficial, as well to the interests of the public as of the holders of said bonds, in accordance with the provisions of this indenture.

Tenth.—The Trustee shall have full power, in its discretion, upon the written request of the Railway Company, at any time when it shall not be in default in respect of any of the covenants of this indenture, to convey, by way of release or otherwise, to the Railway Company, or to such other person or persons as it may designate, any lands acquired in any way, or held for sale, for the purposes of stations, depots, shops or other buildings, or for any purposes whatsoever; *Provided*, however, in each of such cases, that in the judgment of the Trustee, such lands shall not be necessary for the use of the Railway Company, and that the written request of the Railway Company shall be accompanied by the affidavit of the President or Chief Engineer stating that such lands are not needed for the purposes of the Railway Company, which affidavit shall be conclusive evidence to the Trustee of the truth of the statements therein contained; and also to convey, on like request and affidavit, any lands not occupied by track, or which may become disused by reason of change of location in station houses, shops or other buildings, as the Railway Company may deem expedient to disuse or abandon, and to consent to such change or to any other changes in the location of the track or depots or other buildings of the Railway Company as, in its judgment, shall have become expedient, and to make and deliver the necessary conveyance or conveyances to carry the same into effect and any lands which may be acquired for permanent use, in substitution or exchange for any so released, shall be conveyed to the Trustee upon the trusts of this indenture; and no property shall be released or conveyed by the Trustee which, in its judgment, shall be essential and material to secure the holders of said bonds; the Trustee shall have full power to permit the Railway Company from time to time to sell and dispose of any portion of the rolling stock, equipment, materials or machinery, heretofore acquired for the operation of the road and no longer necessary, or which

Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.
Power of Trustee
to release real estate.

Power of Trustee to
permit Ry. Co. to
dispose of rolling
stock, machinery
and materials.

**Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.**

may have become unfit for use, but upon the condition that the money realized from such sale shall be received by the Trustee, or the property so sold be replaced by other property of the same character, which shall then become subject to the operation of this indenture, and which is hereby expressly conveyed to the Trustee, subject to such operation.

**Trustee may bid at
any public sale of the
mortgaged property.**

Eleventh.— It is hereby further agreed that at any public sale of the railway property, premises, rights, interests and franchises hereby conveyed, made by virtue of the powers herein granted, or by judicial authority, for the purpose of enforcing the lien on this indenture, the Trustee, or Trustees thereunder, for the time being, may bid for and, if the same be attainable at the prices hereinafter mentioned, purchase and acquire the property so offered for sale on behalf of the holders of the bonds, secured by this indenture, which shall then be outstanding, in proportion to the amount of said bonds, and of the overdue coupons thereunto belonging, by them respectively held; *Provided*, however, that nothing herein contained shall authorize said Trustee or Trustees to bid, on behalf of the holders of said bonds and coupons, a sum exceeding the whole amount of said bonds then outstanding with the interest accrued thereon according to the tenor thereof and the amount due the holders of the First Mortgage Bonds hereinbefore mentioned, and the cost and expenses of such sale, for the entire property then held upon the trusts of this indenture, or in amount reasonably proportioned thereto, for any part of the said property.

**Compensation
of Trustee.**

Twelfth.— The Trustee shall receive reasonable compensation for the services rendered by it in the discharge of the duties hereby and hereunder imposed upon the Trustee.

**Term "Trustee" to
include successors.**

Thirteenth.— The term or words, "the Trustee," "said Trustee," and "the said Trustee," as used in this indenture, shall be held and stated to mean the Trustee or Trustees for the time being. And it is mutually agreed that the said Trustee, or any Trustee or Trustees hereafter appointed, may, upon not less than ten (10) days' previous notice in writing, to be duly served upon said Trustee or

**Provision for removal
of Trustee by
bondholders.**

of any Trustee shall occur, or within ninety (90) days after the resignation or removal of any Trustee, the President of the Railway Company shall thereupon become such Trustee, and shall serve as such, and shall be subject to all the duties and be vested with all the powers herein or hereby created, granted and conferred upon the said party of the second part, until two-thirds in interest of the holders of the outstanding bonds shall elect a Trustee or Trustees, in the manner aforesaid. It is further expressly agreed that all covenants, stipulations, promises and undertakings herein contained, by or on behalf of the Railway Company, shall bind and be binding upon its successors or assigns, whether so expressed or not.

Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.

Fifteenth.—The Trustee shall not be answerable for the default or misconduct of any attorney, clerk or agent appointed by it in pursuance hereof, if such attorney, clerk or agent be selected with reasonable care, nor for any error or mistake made by it in good faith, but only for gross negligence or wilful default in the discharge of its duties as such Trustee. The Trustee shall not be individually liable for any debts contracted or any liabilities incurred by it, nor for any damage to persons or property carried or injured, nor for salaries or non-fulfilments of contracts during any period in which the Trustee shall manage the trust property, upon entry or voluntary surrender as aforesaid, but all such debts and liabilities shall be and constitute a first charge upon the trust funds and property.

Limitation of
liability of Trustee.

Sixteenth.—It is further agreed that the whole issue of said bonds, to be secured hereby, shall immediately, upon the execution of the same by the Railway Company, as aforesaid, be delivered to the Trustee for certification, from time to time, pursuant to the provisions hereof.

Whole issue of bonds
to be executed by
Ry. Co. and delivered
to Trustee.

Seventeenth.—It is further agreed that the Railway Company shall have the right to redeem the entire issue of the bonds secured hereby, at the par value thereof, upon any day after the date of said bonds, upon which interest is payable, and upon giving notice of its election so to do, by publication, six times each week for not less than six successive weeks preceding the interest day upon which it is

Ry. Co. may redeem
entire issue of bonds
on any interest day
after giving certain
notice.

Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.
Provision for
transferring trust.

proceed to elect a suitable person or persons, or corporation, to act as Trustee or Trustees, to fill such vacancy; and the person or persons, or corporation, so selected shall immediately upon such election, and upon his, their or its filing with the Railway Company an acceptance in writing of such trust, become vested with all the estate, trust, rights, powers and duties of the said Trustee, party of the second part, as prescribed herein; and thereupon all the powers hereunder, and all the estate, right, title and interest in said premises, of the Trustee, who shall have become incapable, or have resigned, or have been removed, shall wholly cease and determine; but nevertheless, the Trustee or Trustees resigning, or being removed as aforesaid, shall, upon the request in writing of the new Trustee or Trustees, execute and deliver to it, him or them, all such conveyances and other instruments as shall be fit and expedient, for the purpose of assuring to such new Trustee or Trustees the legal estate in the premises; *Provided*, the expenses of the preparation and execution of such instruments shall be defrayed by the Railway Company, or by the said new Trustee or Trustees, or other parties in interest; and, *provided*, further, that nothing herein contained shall be so construed as to deprive any Trustee, or his or its representatives, of any right to receive such compensation or reimbursement as such Trustee is, or may be, justly entitled to, for any services actually rendered or expenses incurred, under this indenture; and in case of such election of a new Trustee or Trustees, as aforesaid, the Railway Company hereby covenants to make, execute and deliver such other or further instruments, deeds, indentures or assurances, as may be necessary to enable the person or persons, or corporation, so elected, to execute and carry out the trusts hereby created and declared, as fully and perfectly in all respects, as he, they or it, could have executed and carried out the same if originally made the party of the second part to this indenture; and it is hereby declared and agreed that in case the holders of said bonds shall fail or omit to appoint a new Trustee or Trustees, in the manner aforesaid, within ninety (90) days after the incapacity

In case of failure
to elect new Trustee
President of Ry. Co.
shall act as Trustee
until place is filled.

of any Trustee shall occur, or within ninety (90) days after the resignation or removal of any Trustee, the President of the Railway Company shall thereupon become such Trustee, and shall serve as such, and shall be subject to all the duties and be vested with all the powers herein or hereby created, granted and conferred upon the said party of the second part, until two-thirds in interest of the holders of the outstanding bonds shall elect a Trustee or Trustees, in the manner aforesaid. It is further expressly agreed that all covenants, stipulations, promises and undertakings herein contained, by or on behalf of the Railway Company, shall bind and be binding upon its successors or assigns, whether so expressed or not.

Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.

Fifteenth.—The Trustee shall not be answerable for the default or misconduct of any attorney, clerk or agent appointed by it in pursuance hereof, if such attorney, clerk or agent be selected with reasonable care, nor for any error or mistake made by it in good faith, but only for gross negligence or wilful default in the discharge of its duties as such Trustee. The Trustee shall not be individually liable for any debts contracted or any liabilities incurred by it, nor for any damage to persons or property carried or injured, nor for salaries or non-fulfilments of contracts during any period in which the Trustee shall manage the trust property, upon entry or voluntary surrender as aforesaid, but all such debts and liabilities shall be and constitute a first charge upon the trust funds and property.

Limitation of
liability of Trustee.

Sixteenth.—It is further agreed that the whole issue of said bonds, to be secured hereby, shall immediately, upon the execution of the same by the Railway Company, as aforesaid, be delivered to the Trustee for certification, from time to time, pursuant to the provisions hereof.

Whole issue of bonds
to be executed by
Ry. Co. and delivered
to Trustee.

Seventeenth.—It is further agreed that the Railway Company shall have the right to redeem the entire issue of the bonds secured hereby, at the par value thereof, upon any day after the date of said bonds, upon which interest is payable, and upon giving notice of its election so to do, by publication, six times each week for not less than six successive weeks preceding the interest day upon which it is

Ry. Co. may redeem
entire issue of bonds
on any interest day
after giving certain
notice.

Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.

proposed to make such redemption, in at least one newspaper published in the City of New York, New York, and in at least one newspaper published in the City of Denver, Colorado. Such redemption shall be made at the office of the Trustee, and if on or before the interest day, upon which the Railway Company shall have elected to redeem said bonds, it shall deposit with the Trustee or in such depository as the Trustee may designate, the amount of money necessary to redeem the principal of said bonds then outstanding, with interest due thereon upon such proposed day of redemption, all interest upon said bonds thereafter shall cease, and all coupons attached thereto be delivered up and cancelled.

Defeasance clause.

Eighteenth.—If the Railway Company shall well and truly pay, or cause to be paid, all the bonds to be issued hereunder, or entitled to the protection of this indenture, and the coupons thereto attached, at the times and in the manner therein specified, or shall exercise its right to redeem the same as aforesaid, and shall well and truly keep and perform the covenants and undertakings herein and hereby required to be kept and performed by it, according to the true intent and meaning of this indenture, then, and in that case, all property, rights and interests, hereby conveyed, shall revert to the Railway Company, and the estate, right, title and interest of the said Trustee aforesaid, its successor or successors, shall thereupon cease, determine and become void; otherwise the same shall be, continue and remain in full force and virtue.

Provision for
execution of eight
originals for purposes
of recording.

AND INASMUCH as it is intended that this indenture shall be simultaneously recorded in the proper offices in each of the several counties of Colorado, wherein the railway property and premises conveyed hereby, or intended so to be, or some part thereof, is situated, or as nearly at the same time as possible, *this indenture further witnesseth*: That although eight copies, or counterparts thereof, are simultaneously executed by the Railway Company, under its corporate seal and attested by its President and Secretary, in pursuance of a resolution of its Board of Directors, and delivered to the said Trustee, and the said Trustee in evi-

dence of its acceptance of the trust hereby created, has likewise, to each of the said eight copies or counterparts, affixed its corporate seal and caused the same to be subscribed by its President, simultaneously, to the end that one thereof may be recorded in each of the said counties as aforesaid, all such copies and counterparts, so executed and delivered, each as an original, shall constitute but one instrument.

Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.

IN WITNESS WHEREOF, the said, The Colorado Midland Railway Company, the party of the first part, has caused these presents to be executed, on its behalf by its President, and its corporate seal, attested by its Secretary, to be hereunto affixed, and the said Central Trust Company of New York, the party of the second part, in evidence of its acceptance of the trust hereby created, has likewise caused these presents to be executed, on its behalf, by its President, and its corporate seal, attested by its Secretary, to be hereunto affixed.

Attesting clause.

THE COLORADO MIDLAND RAILWAY COMPANY.

By JAMES J. HAGERMAN,
[SEAL] *President.*

Attest:

CHARLES A. LANSING,
Secretary.

THE CENTRAL TRUST COMPANY OF NEW YORK.

By F. P. OLCOTT,
[SEAL] *President.*

Attest:

C. H. P. BABCOCK,
Secretary.

' STATE OF NEW YORK, }
COUNTY AND CITY OF NEW YORK, } ss.

On this 13th day of December, 1887, before me Joseph B. Braman a Commissioner of Deeds for the State of Colorado, within and for the State of New York, residing at the

Acknowledgment
of Ry. Co.

Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.

City of New York, in the County and State of New York, personally appeared James J. Hagerman, to me personally known and known to me to be the same person who executed the foregoing instrument, as President of The Colorado Midland Railway Company, and acknowledged that he executed said instrument by order of the Board of Directors of said company as its free and voluntary act and deed, and as his own free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above mentioned.

[OFFICIAL SEAL]

JOSEPH B. BRAMAN,
*Commissioner of Deeds for the State of
Colorado in and for the State of New
York, Resident in said City of New
York, Offices Equitable Building 120,
Branch and Residence 1270 Broadway
N.Y. City.*

Affidavit of Secretary
of Ry. Co. as to
corporate seal and
authority to affix
the same.

STATE OF COLORADO, {
COUNTY OF EL PASO, } ss.

On this 17th day of December, 1887, before me Lewis B. Johnson a Notary Public within and for said county and State, personally appeared Charles A. Lansing, to me personally known and known to me to be the Secretary of said The Colorado Midland Railway Company, and who, being by me duly sworn, did depose and say: That the seal affixed to the foregoing instrument is the corporate seal of the said The Colorado Midland Railway Company; and that said seal was affixed thereto and attested by him as Secretary of said Company by order of the Board of Directors of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year above mentioned.

[NOTARIAL SEAL]

LEWIS B. JOHNSON,
Notary Public.

My commission expires Nov. 12, 1891.

STATE OF NEW YORK, }
COUNTY AND CITY OF NEW YORK, } ss.

Second Mortgage
C. M. Ry. Co.,
including First
Mortgage on Jerome
Park Coal Branch.
Acknowledgment
of Trust Co.

On this 13th day of December A.D. 1887 before me, Charles Edgar Mills a Commissioner of Deeds for the State of Colorado, within and for the State of New York, residing at the City of New York, in the County and State of New York, personally appeared Frederick P. Olcott and Charles H. P. Babcock, each to me personally known, and known to me to be respectively the same persons who executed the foregoing instrument as the President and Secretary of the said Central Trust Company of New York, and severally acknowledged that they executed the foregoing instrument in their respective capacities of President and Secretary of the said Central Trust Company of New York, as the free and voluntary act of the said Company, and as their own free and voluntary act, for the uses and purposes therein set forth.

And the said Frederick P. Olcott and Charles H. P. Babcock, being each by me duly sworn, did depose and say, each for himself, that the seal affixed to the foregoing instrument is the corporate seal of the said Central Trust Company of New York; and that said seal was affixed thereto and said instrument signed by them, respectively, as President and Secretary of said Company by order of the Board of Directors of said Company.

Affidavit of President
and Secretary as to
corporate seal and
authority to affix
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above mentioned.

CHARLES EDGAR MILLS,

[OFFICIAL SEAL]

*A Commissioner of Deeds for the State
of Colorado in New York, No. 115
Broadway N.Y. City.*

THE FOREGOING MORTGAGE was recorded as follows:—

COUNTY	DATE	BOOK	PAGE
El Paso	Dec. 17, 1887	68	462
Park	Dec. 19, 1887	38	49
Chaffee	Dec. 19, 1887	55	89
Lake	Dec. 19, 1887	118	30
Pitkin	Dec. 19, 1887	46	22
Eagle	Dec. 19, 1887	31	160
Garfield	Dec. 19, 1887	2	172

Recording of
foregoing mortgage.

THIRD MORTGAGE

OF

THE COLORADO MIDLAND RAILWAY COMPANY.

June 5, 1888.

Parties.

THIS INDENTURE, made and entered into this fifth day of June, in the year one thousand eight hundred and eighty-eight, by and between THE COLORADO MIDLAND RAILWAY COMPANY, hereinafter termed "The Railway Company," a corporation duly organized and existing under and by virtue of the laws of the State of Colorado, party of the first part, and the CENTRAL TRUST COMPANY OF NEW YORK, hereinafter termed "the Trustee," or "the said Trustee," a corporation duly organized and existing under and by virtue of the laws of the State of New York, party of the second part, witnesseth, that

Authorized lines.

WHEREAS, The Railway Company has, under and by virtue of the laws of the State of Colorado, and of its certificate of incorporation and the several amendments thereto, become entitled to survey, locate, construct, maintain and operate a railway and telegraph line from the City of Colorado Springs, in El Paso County, Colorado, through the Ute Pass into South Park, and by the most eligible route to Leadville; also from Leadville, westward, to the town of Aspen, and through Pitkin, Eagle and Garfield Counties, by the most eligible route, to the western boundary of the State of Colorado, with various branches, in its amended certificate of incorporation particularly described, among which is a branch from a point on the main line near the confluence of Roaring Fork Creek and Four Mile Creek, Garfield County, thence up Four Mile Creek and Edgerton Creek, in a general southerly or southeasterly direction to North Thompson Creek; and

Constructed lines
and desire to borrow
money to complete
same.

WHEREAS, The Railway Company has, in pursuance of the authority to it granted, as aforesaid, constructed and is now operating nearly all of that part of its said line of railway and telegraph, extending from the City of Colorado Springs,

through the Ute Pass, to the City of Leadville, and thence westward to the City of Aspen and to the mouth of Elk Creek on the Grand River, in Garfield County, also said branch line above described, commonly known as the "Jerome Park Coal Branch," and desires to borrow money for the purpose of completing the construction of said line, providing for the maintenance and operation thereof, and discharging its unsecured indebtedness; and

Third Mortgage
C. M. Ry. Co.

WHEREAS, At the annual meeting of the stockholders of the Railway Company, duly held at its office, in the City of Colorado Springs, Colorado, on the twenty-first day of May, 1888, at which meeting stockholders representing more than a majority of the capital stock of the Railway Company were present in person or represented by proxy, the following preamble and resolutions were unanimously adopted:

Preamble and
resolutions adopted
at annual meeting
of stockholders.

WHEREAS, This Company has, in pursuance of the authority granted it by the laws of the State of Colorado, and of its Certificate of Incorporation and the several Amendments thereto, located, and for the most part, constructed, that portion of its line of railway and telegraph extending from the City of Colorado Springs to the City of Leadville and from the City of Leadville to the mouth of Elk Creek, on the Grand River, Garfield County, and the "Aspen Branch" and the "Jerome Park Coal Branch," and desires to secure means in addition to those heretofore provided by the sale of its prior mortgage bonds and its stock, in order to complete the construction of and to put in operation all of its said line, to discharge its unsecured indebtedness and to provide for other obligations soon to mature:

Preamble.

NOW, THEREFORE, be it *Resolved*, That, in order to provide the means required for the purposes above set forth and generally to improve the condition of the Company's property along its line, and to procure therefor the necessary and usual appurtenances and facilities of railway and telegraph lines, the President and Secretary be and they are hereby authorized to execute under the corporate seal, mortgage bonds of the Company to the amount of three million (\$3,000,000.00) dollars; such bonds to be in the form of coupon bonds, to be for the sum of one thousand (\$1,000.00) dollars each, to mature twenty-five (25) years from the first day of May, 1888, with the right reserved to the Company

Resolutions.

Third Mortgage
C. M. Ry. Co.
Resolutions adopted
at annual meeting
of stockholders.

to redeem the same at par, at its pleasure; to bear interest at the rate of six per cent. per annum, payable in semi-annual coupons maturing on the first day of May and the first day of November of each year, and to be payable, principal and interest, in the City of New York, in gold coin of the United States, of, or equal to, the present standard, and

Be it also *Resolved*, That for the purpose of securing the payment of such bonds, in accordance with the terms thereof, the President and Secretary be and they are hereby authorized to execute, under the seal of this Company, in such form as may be advised by counsel, and to deliver to the Central Trust Company of New York, as Trustee, a mortgage or Deed of Trust, in seven (7) or more originals, covering and conveying all the right, title, interest, claim and demand which the Railway Company now has, or may acquire in and to the corporate franchise to survey, locate, construct, maintain, use and operate the line of railway and telegraph above described, namely from Colorado Springs to Leadville, from Leadville to Elk Creek, the "Aspen Branch" and the "Jerome Park Coal Branch," and the said line of railway and telegraph above described, now constructed or to be constructed, the same being two hundred and seventy-five miles of railway, more or less, exclusive of sidings, including also all the rolling stock, rails, ties, timber, furniture, fuel and other material, supplies and personal property, of every nature whatsoever, now owned by the Company, or which may be hereafter acquired by it, for or in respect of the construction, maintenance or operation of said line of railway and telegraph above described, or which may be purchased or acquired with money arising from the sale of the bonds, to be secured by said mortgage or Deed of Trust; that such mortgage or Deed of Trust may be conditioned to cover also any extension or branch, from any point on the line of the railway hereinbefore described, to the extent to which the proceeds of the bonds secured by such mortgage or Deed of Trust, shall be used in the construction of such extension or branch; subject, however, as to so much of said line of railway and telegraph above described, as lies between the City of Colorado Springs and the City of Leadville and between the City of Leadville and the mouth of Elk Creek, and as to said "Aspen Branch" and as to all the

rolling stock now owned or which may hereafter be acquired by the Railway Company, for the operation of the line of railway above described, viz: from Colorado Springs to Leadville and from Leadville to Elk Creek, and said "Aspen Branch" and said "Jerome Park Coal Branch," to the prior lien of the Deed of Trust dated July 15th, 1886, given by the Railway Company to secure its first mortgage bonds to the amount of six millions two hundred and fifty thousand dollars (\$6,250,000.00); and to the prior lien of the Deed of Trust dated December 10th, 1887, and given by the Railway Company to secure its first and second mortgage bonds, to the amount of one million five hundred thousand dollars (\$1,500,000.00); and subject, also, as to said "Jerome Park Coal Branch," to the prior lien of said Deed of Trust, dated December 10th, 1887; and

Third Mortgage
C. M. Ry. Co.

Be it also *Resolved*, That the bonds and mortgage or Deed of Trust hereby authorized, shall be conditioned to the effect that there shall be no enforced collection by foreclosure of said mortgage or Deed of Trust, legal process or otherwise, of any interest accruing upon any of said bonds, until after the first day of May, 1893, and that said bonds and said mortgage or Deed of Trust shall, in other respects than those above set forth, be in such form and to such effect as the President of this Company, under the authority of the Board of Directors and the advice of counsel shall determine; and

WHEREAS, Resolutions to the same effect, and authorizing the execution and delivery of such bonds and mortgage or Deed of Trust, as aforesaid, have been duly passed and adopted by the Board of Directors of the Railway Company; and

Like resolutions
adopted by Directors.

WHEREAS, In pursuance of said resolutions, and of the authority in it vested by the laws of the State of Colorado, the Railway Company has determined to issue said bonds, and to secure the payment of the same, principal and interest, by this mortgage or Deed of Trust, such bonds to stand equally and ratably secured hereby, without any preference whatever, arising from the time of issuing or otherwise, and in the manner and on the conditions herein provided, and each of said bonds to be executed by and under the seal of the Railway Company, signed and attested by its President and

Third Mortgage
C. M. Ry. Co.

Secretary, and the interest coupons to be authenticated by and with the name of its Treasurer; and each of said bonds being so signed, sealed, executed and authenticated to be countersigned by the Trustee, which countersigning or certifying shall be conclusive and the only conclusive evidence that such bond is secured by this indenture; and

Form of bonds.

WHEREAS, The President of the Railway Company has determined, as authorized by said resolutions, that said bonds shall be substantially in the following form:

SIX PER CENT., MORTGAGE, TWENTY-FIVE YEARS, GOLD
BOND.

Total authorized issue, \$3,000,000.00

UNITED STATES OF AMERICA.

No. \$1,000.00

THE COLORADO MIDLAND RAILWAY COM-
PANY.

For value received, The Colorado Midland Railway Company, a corporation of the State of Colorado, promises to pay to the bearer of this bond, or if registered, to the registered owner thereof, at its agency, in the City of New York, on the first day of May, nineteen hundred and thirteen, one thousand dollars, in gold coin of the United States, of or equal to the present standard, with interest thereon in like gold coin, at the rate of six per cent. per annum, payable at said agency, semi-annually, on the first days of May and November of each year, upon presentation and surrender of the annexed interest coupons; *Provided, however,* and the holder of this bond hereby agrees, that there shall be no enforced collection of any interest accruing hereon, by foreclosure of the mortgage or Deed of Trust securing the same, legal process or otherwise, until after the first day of May, 1893. This bond is one of a series of mortgage bonds, each of the denomination of one thousand dollars, numbered consecutively from 1 to 3,000 inclusive. The holder hereof is entitled to the security of a mortgage or Deed of Trust, dated June 5th, 1888, executed by the said Railway Company

to the Central Trust Company of New York, as Trustee, and duly recorded and conveying to said Trustee, all of the railway property and franchises of said Railway Company, as specified in said mortgage or Deed of Trust, belonging or appertaining to so much of its main line of railway as lies, or shall hereafter be constructed, between Colorado Springs and the mouth of Elk Creek, Garfield County, and the "Aspen Branch" and the "Jerome Park Coal Branch;" *Subject, however*, as to the said main line of railway and the appurtenances thereto, and as to said "Aspen Branch" and the appurtenances thereto, and as to all rolling stock now owned, or which may hereafter be acquired by said Railway Company, for the operation of the said line of railway above described, to the prior lien of a Deed of Trust, dated July 15, 1886, securing first mortgage bonds to the amount of \$6,250,000. and a Deed of Trust dated December 10th, 1887, securing other mortgage bonds to the amount of \$1,500,000, and subject as to said "Jerome Park Coal Branch," to said Deed of Trust dated December 10th, 1887.

Third Mortgage
C. M. Ry. Co.
Form of bond.

If default shall be made in the payment of any semi-annual instalment of interest, when the same shall become due and be demanded, and such default shall continue for six months after such demand, the principal of this bond shall become due and payable, in the manner provided in said mortgage or Deed of Trust first above mentioned: *provided, however*, and the holder of this bond hereby agrees that in no event shall this right of declaring the principal due be exercised until after the first day of May, 1893. Said Railway Company and all of its property subject to said prior liens, is liable to pay this bond; but stockholders are not individually liable thereon, nor in respect thereto. Said Railway Company hereby waives the benefit of any extension, stay or appraisement laws now existing, or that may hereafter exist. This bond is redeemable at par, at the pleasure of the Railway Company, as provided in said mortgage or Deed of Trust first above mentioned. This bond shall pass by delivery, unless registered, and if registered, by transfer on the books of said Railway Company, at its agency in the City of New York. If registered, no transfer, except on said books shall be valid, unless the last transfer shall have been to bearer, which shall restore transferability by delivery; but this bond

Third Mortgage
C. M. Ry. Co.
Form of bond.

shall continue subject to successive registrations and transfers to a party named, or to bearer, as aforesaid, at the option of each holder. This bond shall not become obligatory upon said Railway Company until the certificate indorsed hereon shall be signed by said Trustee.

IN WITNESS WHEREOF, the said, The Colorado Midland Railway Company has caused its corporate seal to be affixed hereto, and the same to be subscribed by its President and attested by its Secretary this fifth day of June, 1888, and the annexed interest coupons to be executed with the engraved signature of its Treasurer.

THE COLORADO MIDLAND RAILWAY COMPANY.

By

President.

Attest :

Secretary.

[FORM OF EACH INTEREST COUPON.]

\$30.00

The Colorado Midland Railway Company will pay the bearer, at its fiscal agency, in the City of New York, thirty dollars, in gold coin of the United States of America on the first day of being six months' interest on its bond No.

Treasurer.

[FORM OF TRUSTEE'S CERTIFICATE ENDORSED ON EACH BOND.]

The Central Trust Company of New York hereby certifies that the within bond is one of the bonds issued in conformity with and described in the mortgage or Deed of Trust first mentioned within.

CENTRAL TRUST COMPANY OF NEW YORK,

Trustee.

By

Vice-President.

AND, WHEREAS, It is further agreed by the Railway Company, as a covenant and condition of this mortgage or Deed of Trust, and of the certification and issue of said bonds to it by the Trustee, that all and singular of said bonds so to be certified and issued, shall be faithfully applied to the legitimate expenses and cost of the location, construction, improvement and maintenance of its said line of railway and telegraph above described, namely, lying between the City of Colorado Springs and the City of Leadville, and between the City of Leadville and the mouth of Elk Creek, Garfield County, and said "Aspen Branch," and said "Jerome Park Coal Branch," or to extensions thereof, branches or spurs therefrom or connections therewith, and to the procuring of equipment therefor, and to the other legitimate and necessary expenses of the railway, incurred in connection with, or in consequence of, the survey, location, construction, maintenance or operation of said line of railway above described, or of such extensions, branches, spurs or connections, and shall be certified by the Trustee, and delivered to the Railway Company or upon its order. But it is expressly agreed, for the guidance and protection of the Trustee in the certification and delivery of bonds hereunder, that bonds shall be certified by the Trustee and delivered to the Railway Company, or upon its order, only upon the written application of the Railway Company, expressed through a resolution of its Board of Directors, adopted at a regular meeting, or at a special meeting called for that purpose, wherein it shall be stated what amount of bonds are required at that time, and the purpose for which the same are required, and which resolution, duly certified by the Secretary or Assistant Secretary of the Railway Company, and under its corporate seal, shall be full authority and protection to the Trustee, in certifying and delivering said bonds; and no duty is imposed upon the Trustee to look behind such resolution before certifying said bonds and delivering the same. No bond to be issued under the provisions of this mortgage or Deed of Trust by the Railway Company, shall be obligatory upon it, until the Trustee shall duly sign a certificate endorsed thereon, substantially in the form hereinbefore described.

Third Mortgage
C. M. Ry. Co.

Proposed application
of proceeds of bonds
to be issued
hereunder.

Manner of
certification by
Trustee and of
request therefor
by Ry. Co.

Third Mortgage
C. M. Ry. Co.
Granting clause.

Description of
franchises and
property mortgaged.

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Railway Company, party of the first part, in consideration of the premises, and of one dollar to it in hand paid by the said Trustee, at or before the enrolling and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the punctual payment of the principal and interest of the bonds aforesaid, to be issued, as hereinbefore mentioned, hath granted, bargained, sold, assigned, transferred, set over, released, conveyed and confirmed, and by these presents does grant, bargain, sell, assign, transfer, set over, release, convey and confirm unto the Trustee, party of the second part, and to its successor or successors in trust herein, all the right, title, interest and claim or demand whatsoever, which the Railway Company now has, or is entitled to, or which it shall or may at any time hereafter acquire, by or on account of its certificate of incorporation, or any amendment or amendments thereto or otherwise, of, in, and to the corporate franchise to survey, locate, construct, maintain, use and operate the line of railway and telegraph, hereinbefore particularly described, namely: from the City of Colorado Springs to the City of Leadville, and from the City of Leadville to the mouth of Elk Creek, on the Grand River, Garfield County, and from a point known as "Aspen Junction," near the confluence of Frying Pan Creek and Roaring Fork Creek, to and through the town of Aspen, to a point on Smuggler Mountain, said last named line being known as the "Aspen Branch," and from a point known as "Cardiff," near the confluence of Roaring Fork Creek and Four Mile Creek, to a point near North Thompson Creek, Pitkin County, said last named line being known as the "Jerome Park Coal Branch," together with its said railways and lines of railway, located and to be located, between said points, and now constructed, or in contemplation, or in process of construction, and hereafter to be completed, and all its right, title and interest in and to the line of telegraph between said points, being in all two hundred and seventy-five (275) miles of railway, more or less, and all the rolling stock and equipment of whatever nature or kind, owned and hereafter to be owned for the purpose of operating said line of railway and telegraph above particularly described or purchased with the proceeds

of said bonds ; and also all the lands, tenements and hereditaments acquired or appropriated, or which may hereafter be acquired or appropriated for the purpose of right of way for said line of railway above described, and all the easements or appurtenances, thereunto belonging, or in any way appertaining, and all the railways, ways and rights of ways, depot grounds, tracks, bridges, viaducts, culverts, fences and other structures ; engine-houses, freight-houses, car-houses, wood-houses, ware-houses, machine-shops, work-shops, superstructures and erections, whether now in existence, or hereafter at any time acquired for the use of, or in connection with said line of railway above described, also all rails, ties, chairs, machinery, tools, implements, fuel and material whatsoever, for or in respect of the constructing or replacing of said line of railway and telegraph above described, or any part thereof, whether now held or owned, or hereafter to be acquired by the Railway Company, together with all equipment and appurtenances whatsoever, thereunto belonging, whether now held or hereafter acquired ; and all replacements and renewals and all franchises connected with, or belonging to, said line of railway and telegraph above described, or to the construction, maintenance or use thereof, now held or hereafter to be acquired by the Railway Company, and all corporate franchises of any nature, relating to said line of railway and telegraph above described, which are now, or may hereafter be possessed or exercised by the Railway Company, together with all and singular the endowments, income, advantages, tenements, hereditaments and appurtenances to the said above described line of railway and telegraph belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, tolls, incomes, rents, profits and issues thereof, and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, present or prospective, of the Railway Company, in and to the said line of railway and telegraph above described, and every part of the same, and every parcel thereof, with the appurtenances, subject, however, as to so much of said line of railway and telegraph above described as lies between the City of Colorado Springs and the City of Leadville, and between the City of Leadville and the mouth of Elk Creek, and as to said "Aspen Branch"

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**Third Mortgage
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and as to all the rolling stock now owned or which may be hereafter acquired, for the operation of the line of railway above described, namely, from Colorado Springs to Leadville and from Leadville to Elk Creek, and said "Aspen Branch" and said "Jerome Park Coal Branch" to the prior lien of a Deed of Trust dated July 15th, 1886 and given by the Railway Company to secure its first mortgage bonds, to the amount of six million two hundred and fifty thousand (\$6,250,000.00) dollars, and to the prior lien of a Deed of Trust, dated December 10th, 1887, and given by the Railway Company to secure its first and second mortgage bonds to the amount of one million five hundred thousand (\$1,500,000.00) dollars, and subject also, as to said "Jerome Park Coal Branch" to the prior lien of said Deed of Trust, dated December 10th, 1887.

Habendum clause.

TO HAVE AND TO HOLD all and singular the above described premises, property, rights, franchises and appurtenances, subject to said prior liens, to the Trustee, party of the second part, its successor or successors in trust, to the only proper use and behoof of the Trustee, its successor or successors; it being, however, declared to be the true intent and meaning of these presents that the Railway Company, party of the first part, shall and doth convey, to the Trustee, party of the second part, subject to said prior liens, all and all manner of franchises, of every kind and description however derived, and all manner of real estate, or interest therein, and all manner of personal property, of whatever nature or description the same may be, at the date of these presents owned or possessed by the Railway Company, or which may, at any time hereafter, during the continuance of this trust, be acquired by the Railway Company, and which are a part of, or belong to, or are necessary to the construction or maintenance of its said line of railway and telegraph lying between the City of Colorado Springs and the City of Leadville, and between the City of Leadville and the mouth of Elk Creek, on the Grand River, Garfield County, and between a point on the main line known as "Aspen Junction," near the confluence of Frying Pan Creek and Roaring Fork Creek and a point at the foot of Smuggler Mountain, Pitkin County (known as the "Aspen Branch"), and between a point on the main line known as "Cardiff," near the conflu-

**What property
included in mortgage.**

ence of Roaring Fork Creek and Four Mile Creek, Garfield County, and a point on North Thompson Creek, Pitkin County, near where the lower coal seam crosses said creek (known as the "Jerome Park Coal Branch"), including also any and all railway line or railroad constructed with the proceeds of the bonds secured hereby, and no more, the same being two hundred and seventy-five miles of railway, more or less, and it being distinctly understood and agreed that the lien of this Deed of Trust shall extend to and cover only its said line of railway and telegraph above particularly described, and shall not in any manner affect, or become a lien upon any other line, or portion of line, of railway or telegraph which the Railway Company may hereafter construct, or in any manner acquire; *in trust, nevertheless*, for the uses and purposes herein declared and expressed, as follows, to wit:

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FIRST.—To secure the payment of the bonds of the Railway Company, to be issued as hereinbefore recited, and for the equal *pro rata* benefit of all and every of the persons who, or corporations which, shall at any time be or become the holders of said bonds, subject to the terms, provisions, covenants and stipulations in said bonds contained, without any preference or priority of any one bond over another, by reason of priority in time of the issuance or negotiation thereof, or otherwise.

Mortgage to equally
secure all bonds
issued hereunder.

SECOND.—Until by the express condition of this indenture, the right of entry shall accrue to the Trustee, the Railway Company, its successors or assigns, shall be permitted to possess, manage, use and enjoy, all and singular, the said property, including the said railway or railways, with their appurtenances, equipment, and their said franchises, and to take and use the rents, incomes, profits, tolls and issues thereof, in the same manner and with the same effect as if this indenture had not been made.

Possession of
mortgagor until
default.

THIRD.—And the Railway Company, in consideration of the premises, covenants, promises and agrees:

Covenants of Ry. Co.

That, having possession as aforesaid, it will well and truly pay and discharge, or cause to be paid and discharged, each and every tax and assessment, or other liability and governmental charge, which may, from time to time, be lawfully levied or imposed, by competent authority, upon the said railway property, premises, or upon any part thereof, the

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lien whereof might or could be held to be superior to the lien of this indenture, so that the priority of this indenture shall, at all times, be duly maintained and preserved, and will at all times keep insured, in good, safe and reliable insurance companies, its rolling stock, tools and machinery, buildings, bridges and other structures, erected or to be erected by it, or on its said premises, and all other such property, provided for use and used by it, in connection with the line of railway or telegraph herein described and hereby conveyed, as is usually insured by railway companies, and in the same manner and to the same extent; and will at all times diligently preserve all the rights and franchises to it granted and upon it conferred by the laws of the State of Colorado; and will at all times, maintain, preserve and keep, all and singular, the said line of railway and telegraph now owned or possessed, or which may hereafter be constructed or acquired by it, and extending from Colorado Springs to Leadville, and from Leadville to the mouth of Elk Creek, and said Aspen Branch and said Jerome Park Coal Branch, and every part thereof, with the rolling stock, fixtures and appurtenances, and every part and parcel thereof, in good repair, working order and condition, and fully supplied with motive power, rolling stock and equipment; and shall and will, from time to time, make all needful and proper repairs, renewals and replacements, useful alterations, additions and improvements, so that the traffic and business of said line of railway and telegraph, and of every part thereof, shall at all times be done with safety and expedition.

On default continued
to May 1, 1893, or
thereafter for six
months, Trustee may
enter and take
possession.

FOURTH.—In case default shall be made by the Railway Company, its successors or assigns, in the payment of the principal of any of the bonds secured by this indenture, according to the tenor and effect of such bonds, and such default shall continue for the period of six months after payment of the same shall have been duly demanded in writing of the Railway Company, or at its agency in the City of New York; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing on any of the bonds secured by this indenture prior to the first day of May, 1893, according to the tenor and effect of the coupons annexed to such bonds, and such default shall continue beyond the said first day of May,

1893, and payment of such interest so in default shall have been duly demanded in writing of the Railway Company, or at its said agency in the City of New York; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing on any of the bonds secured by this indenture on or subsequent to the said first day of May, 1893, according to the tenor and effect of the coupons annexed to such bonds, and such default last named shall continue for the period of six months after payment of the same shall have been duly demanded in writing of the Railway Company, or at its said agency in the City of New York, or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any taxes, assessment or governmental charge, lawfully levied and imposed upon the said railway property and premises, or any part thereof, and such default shall continue for the period of six months after such taxes, assessment or governmental charge shall become due and payable; or in case default shall be made by the Railway Company, its successors or assigns, in keeping insured its rolling stock, tools and machinery, buildings, bridges and other structures, as aforesaid, and such default shall continue for a period of ninety (90) days after demand of performance by the Trustee herein; or in case default shall be made by the Railway Company, its successors or assigns, in the due observance of any other of its covenants promises or agreements herein required to be done, performed or kept by it, and such default shall continue for the period of one year after demand or performance by the Trustee herein, then, and in each and every such case of default, continued as aforesaid, the said Trustee, if it shall elect so to do, may, and if requested in writing by the holders of two-thirds of the bonds secured hereby and outstanding at the time of such default (and upon being properly indemnified) shall, by its attorney or attorneys, agent or agents, enter into and upon, all and singular, the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, and each and every part thereof, excluding therefrom the Railway Company, its agents, servants, and employees, and have and hold the same; use, operate, manage and control said railway; regulate tolls and the transportation of pas-

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sengers and freight thereon ; and make from time to time, at the expense of the trust estate, all repairs and replacements and such useful alterations, additions and improvements thereto, as well in respect to the rolling stock or equipment as to the railway and its appurtenances, and conduct the business thereof by its attorneys, agents, superintendents or managers, as may seem to it judicious and for the best interests as well of the public as of the holders of said bonds ; and upon such entry, it shall be lawful for the Trustee, its agents or attorneys, from time to time, to insure or keep insured, at the expense of the trust estate, the rolling stock, tools and machinery, buildings, bridges and other structures, erected and provided for use in connection with said railway, whereof it shall become possessed, in the same manner and to the same extent as the Railway Company might have done ; and to collect and receive all tolls, freights or incomes, rents, issues and profits of the same, and every part thereof, and after deducting the expense of operating said railway and conducting the business thereof, and all repairs, replacements, alterations and additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and other proper charges upon the said premises and property, or any part thereof, as well as a just and reasonable compensation for its own services and the services of all attorneys, agents, clerks, servants and other employees, by it properly engaged or employed, to apply the moneys arising as aforesaid, to the payment of the interest in arrear, if any, or which shall after such entry become due and payable, on the outstanding bonds secured hereby, in the order in which such interest shall become due and payable, ratably to the person or persons holding the coupons therefor, without any discrimination or preference between them on account of the date or dates of the maturing of said bonds, or the times of the actual issue thereof, and according to the rate in said bond provided ; and if, after paying all such interest, a surplus shall remain, such surplus shall be applied to the satisfaction of the principal of said bonds, at the time due and unpaid, ratably, without discrimination or preference as aforesaid.

Power of sale on
default.

FIFTH.—In case default shall be made by the Railway Company, its successors or assigns, in the payment of the

principal of any of said bonds, as aforesaid, and such default shall continue for the period of six months after demand in writing made for payment as aforesaid; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing upon any of said bonds before the first day of May 1893, and such default shall continue after the first day of May, 1893, and after demand in writing made for payment, as aforesaid; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing upon any of said bonds, on or subsequent to said first day of May, 1893, and such default last named shall continue for the period of six months after demand in writing made for payment, as aforesaid, it shall be lawful for the said Trustee, after entry, as aforesaid, or after other entry, or without entry, by its attorney or attorneys, agent or agents, if it shall elect so to do, to sell and dispose of, and if requested in writing by the holders of two-thirds of the bonds secured hereby, the Trustee shall sell and dispose of, all and singular the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, or from time to time, as it shall deem proper, of so much thereof as may be sold separately without material injury to the parties interested, and be sufficient to pay the amount due on such bonds, then outstanding, for principal and interest, according to the terms thereof, together with the costs and expenses of such sale, and of all right, title, interest, claim and demand whatsoever, benefit, equity of redemption and statutory right of redemption of the Railway Company, its successors or assigns, of, in and to the same, or so much thereof as may be sold, and every part thereof, at public auction, at such place in the City of New York, New York, or in the City of Denver, Colorado, as it may designate, and at such time and upon such terms as may be specified in the notice of sale, to be given as hereinafter provided, for the highest and best price the same will bring in cash. Before making such sale, the Trustee shall give notice of the time and place, when and where, and of the terms upon which the same is to be made, which notice shall contain a description of the premises and property to be sold, and shall be published not less than six times a

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week, for six weeks next preceding the time specified for such sale, in at least one newspaper published in the City of New York, New York, and in at least one newspaper published in the City of Denver, Colorado, with the right to adjourn such sale from time to time, in the discretion of the Trustee, by giving reasonable notice of such adjournment or adjournments, by advertisement appended to such notice of sale, and after so adjourning, to make such sale at the time and place to which the same may have been adjourned; and upon such sale being made, and upon receiving full payment therefor, to make, execute and deliver to the purchaser or purchasers at such sale, good and sufficient deed or deeds of conveyance for the property and franchises so sold; which sale, made as aforesaid, shall be a perpetual bar, both in law and equity, against the Railway Company, and all other persons lawfully claiming or to claim the above described railway property and premises, rights, interests and franchises so sold, or any part thereof, or any lien upon or interest therein, by, through or under the Railway Company; and after deducting from the proceeds of such sale a just allowance for all the expenses thereof, including reasonable attorney and counsel fees, and all other expenses, advances or liabilities, which may have been made or incurred by the Trustee, in operating said railway, or in maintaining the same, or in managing its business, while in possession thereof, and all payments which may have been made by it for taxes, or assessments, or other proper charges upon the said railway property and premises, rights, interests and franchises, or any part thereof, including its own reasonable compensation for its services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be, at the time, outstanding and unpaid, whether the same shall or shall not have previously become due, and of the interest which shall have accrued, at that time, on the said principal, and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principle and such accrued and unpaid interest; and if, after satisfaction thereof, as aforesaid, a surplus shall remain, shall pay the same over to the Railway Company, its successors or assigns.

Application for
receiver.

SIXTH.—In case default shall be made by the Railway

Company, its successors or assigns, in the payment of the principal of any of said bonds, as aforesaid, and such default shall continue for the period of six months after demand in writing made for payment, as aforesaid; or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing upon any of said bonds prior to the first day of May, 1893, and such default shall continue after said first day of May, 1893, and after demand in writing made for payment as aforesaid; or in case default shall be made by the Railway Company, its successors or assigns, in payment of any interest accruing upon any of said bonds on or subsequent to the said first day of May, 1893, and such default, last named, shall continue for the period of six months after demand in writing made for payment, as aforesaid, the said Trustee, if it shall elect so to do, may, and if requested in writing by the holders of two-thirds of the bonds secured hereby and then outstanding (and upon being properly indemnified), shall apply to some Court having proper jurisdiction in the premises, for foreclosure and sale of the mortgaged premises, property, rights, interests and franchises, and the appointment in the meantime of a Receiver for the same under this indenture, or (as an alternative of entry in that behalf, hereinbefore given) for the appointment of a Receiver, without applying for a foreclosure or sale of the mortgaged premises; and in either case, the Trustee shall have the right to nominate to the Court the person to be appointed Receiver.

SEVENTH.—In case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing upon any of the said bonds prior to the first day of May, 1893, and such default shall continue after the said first day of May, 1893, and after demand in writing made for payment as aforesaid, or in case default shall be made by the Railway Company, its successors or assigns, in the payment of any interest accruing upon any of said bonds on or subsequent to the said first day of May, 1893, and such default, last named, shall continue for the period of six months after demand in writing made for payment as aforesaid, then, and in either of such cases of default continued as aforesaid, the principal of all of the bonds secured hereby, shall, in case two-thirds in amount of the holders of said

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On default continued as aforesaid Trustee may, on written request of holders of two-thirds of the bonds, begin foreclosure proceedings or apply for the appointment of a receiver.

Provision for declaring principal to be due.

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bonds, in writing and under seal, so elect, be and become immediately due and payable, anything herein or in said bonds contained to the contrary notwithstanding. Two-thirds of the holders of said bonds may, in writing, under their hands and seals, declare, or instruct the Trustee to declare, the said principal to be due, as aforesaid, or waive, or instruct the Trustee to waive, the right so to declare the principal due by reason of such default or defaults, upon such terms and conditions as such two-thirds in amount of the holders of said bonds shall deem proper; *Provided*, That no such action of said bondholders, or of the Trustee, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

Covenant of further
assurance.

EIGHTH.—The Railway Company hereby covenants and agrees, to and with the said Trustee, on behalf and for the benefit of the holders of the bonds secured hereby, that it will, from time to time, and at all times, upon reasonable request, make, execute, acknowledge and deliver, at its own expense, all such further acts, deeds, conveyances and assurances in law for the better assuring unto the Trustee, and its successor or successors in the trust hereby created, upon the trusts and for the purposes herein expressed or intended, all and singular the property, premises, railway equipment and appurtenances, rights, interests and franchises hereby mortgaged or conveyed in trust, or intended or purported so to be, whether now owned or possessed by or vested in the Railway Company, or that may be subsequently acquired or vested in it, as by the Trustee or its counsel learned in the law, shall be reasonably devised, advised or required; and the Railway Company shall furnish to the Trustee, from time to time and at all times, upon its reasonable request in writing, a full and true inventory of all the movable property appertaining to said line of railway, hereinbefore described and hereby conveyed, and to the operation thereof, and which is transferred or intended to be transferred by this indenture; but no failure to demand or furnish such inventory shall impair or affect the operation of this indenture, upon any property herein agreed or intended to be transferred.

Provisions for
voluntary surrender
without default

NINTH.—The Railway Company may, at any time hereafter, before the full payment of said bonds, and whenever it

shall deem it expedient for the better security of said bonds, although such default may not have occurred as to entitle the Trustee to enter into possession of the whole or any part of the said railway property, surrender and deliver into the possession of the Trustee the whole or any part of the said railway property and premises, rolling stock, lands and appurtenances, rights, interests and franchises, hereby conveyed or intended so to be, for any term or terms, certain or indefinite. The Trustee, upon such surrender and delivery, may, at its option, enter into and upon the premises so surrendered and delivered, and take and receive possession thereof for such term or terms, certain or indefinite, as aforesaid, without prejudicing, however, its right, at any subsequent time, to insist upon and maintain such possession, though beyond such term, whenever it would have been entitled thereto by the terms of this indenture, had no surrender been made; and upon the voluntary surrender and delivery, of the said railway property and premises or any part thereof as aforesaid, the Trustee shall and will, during the term or terms for which possession shall be taken, and while said property and premises shall remain in its possession, receive the income and revenues thereof, and work, use, manage and employ the same in such lawful way as may be most beneficial, as well to the interests of the public as of the holders of said bonds, in accordance with the provisions of this indenture.

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TENTH.—The Trustee shall have full power, in its discretion, upon the written request of the Railway Company, at any time when it shall not be in default in respect of any of the covenants of this indenture, to convey, by way of release or otherwise, to the Railway Company, or to such other person or persons as it may designate, any lands acquired in any way, or held for sale, for the purposes of stations, depots, shops or other buildings, or for any purposes whatsoever; *Provided*, however, in each of such cases, that in the judgment of the Trustee, such lands shall not be necessary for the use of the Railway Company, and that the written request of the Railway Company shall be accompanied by the affidavit of the President or Chief Engineer stating that such lands are not needed for the purposes of the Railway Company, which affidavit shall be conclusive

Power of Trustee to
release real estate.

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evidence to the Trustee of the truth of the statements therein contained; and also to convey, on like request and affidavit, any lands not occupied by track, or which may become disused by reason of change of location in station houses, shops or other buildings, as the Railway Company may deem expedient to disuse or abandon, and to consent to such change or to any other changes in the location of the track or depots or other buildings of the Railway Company, as, in its judgment, shall have become expedient, and to make and deliver the necessary conveyance or conveyances to carry the same into effect and any lands which may be acquired for permanent use, in substitution or exchange for any so released, shall be conveyed to the Trustee upon the trusts of this indenture; and no property shall be released or conveyed by the Trustee which, in its judgment, shall be essential and material to secure the holders of said bonds; and the Trustee shall have full power to permit the Railway Company from time to time to sell and dispose of any portion of the rolling stock, equipment, materials or machinery, heretofore acquired for the operation of the road and no longer necessary, or which may have become unfit for use, but upon the condition that the money realized from such sale shall be received by the Trustee, or the property so sold be replaced by other property of the same character, which shall then become subject to the operation of this indenture, and which is hereby expressly conveyed to the Trustee, subject to such operation.

Power of Trustee to
permit Ry. Co. to
dispose of rolling
stock, machinery and
materials.

Trustee may bid at
any public sale of the
mortgaged property.

ELEVENTH.—It is hereby further agreed that at any public sale of the railway property, premises, rights, interests and franchises hereby conveyed, made by virtue of the powers herein granted, or by judicial authority, for the purpose of enforcing the lien of this indenture, the Trustee, or Trustees thereunder, for the time being, may bid for and, if the same be attainable at the prices hereinafter mentioned, purchase and acquire the property so offered for sale on behalf of the holders of the bonds, secured by this indenture, which shall then be outstanding, in proportion to the amount of said bonds, and of the overdue coupons thereunto belonging, by them respectively held; *Provided*, however, that nothing herein contained shall authorize said Trustee

or Trustees to bid, on behalf of the holders of said bonds and coupons, a sum exceeding the whole amount of said bonds then outstanding with the interest accrued thereon according to the tenor thereof and the amount due the holders of the prior Mortgage Bonds hereinbefore mentioned, and the cost and expenses of such sale, for the entire property then held upon the trusts of this indenture, or in amount reasonably proportioned thereto, for any part of the said property.

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TWELFTH.—The Trustee shall receive reasonable compensation for the services rendered by it in the discharge of the duties hereby and hereunder imposed upon the Trustee.

Compensation of
Trustee.

THIRTEENTH.—The term or words, "the Trustee," "said Trustee," and "the said Trustee," as used in this indenture, shall be held and stated to mean the Trustee or Trustees for the time being. And it is mutually agreed that the said Trustee, or any Trustee or Trustees hereafter appointed, may, upon not less than ten (10) days' previous notice in writing, to be duly served upon said Trustee or Trustees, be removed by a vote of two-thirds in interest of the holders of said bonds, cast at any meeting of said bondholders duly convened for such purpose; such notice of removal to be attested by the hands and seals of the Chairman and Secretary of such meeting; such meeting to be called by the President, or Secretary of the Railway Company, upon the request of the holders of not less than one million (\$1,000,000.00) dollars, par value, of said bonds, and written notice of the time and place of holding the same to be served upon or mailed to each bondholder, at his last known address, not less than thirty (30) days prior to the time of holding of such meeting.

Term "Trustee" to
include successors.

Provision for
removal of Trustee
by bondholders.

FOURTEENTH.—And said Trustee, or any Trustee or Trustees hereafter appointed, may resign and be discharged of the trust created by this indenture, by giving notice in writing to the Railway Company and to the bondholders, by publication thereof at least six (6) times a week for four (4) successive weeks, in a newspaper published in the City of New York, New York, and in a newspaper published in the City of Denver, Colorado; such resignation not to take effect until at least thirty (30) days after the last publication of such notice, and only upon the due execution of the con-

Provision for resigna-
tion of Trustee.

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C. M. Ry. Co.
Provision for election
of new trustee or
trustees by
stockholders.

Provision for
transferring trust.

veyance or conveyances hereinafter required; and in case of the dissolution of said Trustee, or of its resignation, incapacity to act or removal as Trustee hereunder, it shall be the duty of the Railway Company, or of its President or Secretary, to call a meeting of the holders of the bonds secured or intended to be secured hereby, by publishing a notice, at least six (6) times each week for at least four (4) weeks, in a public newspaper published in the City of New York, New York, and in a public newspaper published in the City of Denver, Colorado; such meeting of the holders of said bonds to be held in the City of New York, not less than ten (10) days after the last publication of each or either of said notices, for the purpose of filling the place of said Trustee; and two-thirds in interest of the holders of said bonds, so attending such meeting or legally represented thereat, shall be competent to elect a new Trustee, and shall, at such meeting, proceed to elect a suitable person or persons, or corporation, to act as Trustee or Trustees, to fill such vacancy; and the person or persons, or corporation, so selected shall immediately upon such election, and upon his, their or its filing with the Railway Company an acceptance in writing of such trust, become vested with all the estate, trust, rights, powers and duties of the said Trustee, party of the second part, as prescribed herein; and thereupon all the powers hereunder, and all the estate, right, title and interest in said premises, of the Trustee, who shall have become incapable, or have resigned, or have been removed, shall wholly cease and determine; but nevertheless, the Trustee or Trustees resigning, or being removed as aforesaid, shall, upon the request in writing of the new Trustee or Trustees, execute and deliver to it, him or them, all such conveyances and other instruments as shall be fit and expedient, for the purpose of assuring to such new Trustee or Trustees the legal estate in the premises; *Provided*, the expenses of the preparation and execution of such instruments shall be defrayed by the Railway Company, or by the said new Trustee or Trustees, or other parties in interest; and, *Provided*, further, that nothing herein contained shall be so construed as to deprive any Trustee, or his or its representatives, of any right to receive such compensation or reimbursement as such Trustee is, or may be, justly entitled to.

for any services actually rendered or expenses incurred, under this indenture; and in case of such election of a new Trustee or Trustees, as aforesaid, the Railway Company hereby covenants to make, execute and deliver such other or further instruments, deeds, indentures, or assurances, as may be necessary to enable the person or persons, or corporation, so elected, to execute and carry out the trusts hereby created and declared, as fully and perfectly in all respects, as he, they or it, could have executed and carried out the same if originally made the party of the second part to this indenture; and it is hereby declared and agreed that in case the holders of said bonds shall fail or omit to appoint a new Trustee or Trustees, in the manner aforesaid, within ninety (90) days after the incapacity of any Trustee shall occur, or within ninety (90) days after the resignation or removal of any Trustee, the President of the Railway Company shall thereupon become such Trustee, and shall serve as such, and shall be subject to all the duties and be vested with all the powers herein or hereby created, granted and conferred upon the said party of the second part, until two-thirds in interest of the holders of the outstanding bonds shall elect a Trustee or Trustees, in the manner aforesaid. It is further expressly agreed that all covenants, stipulations, promises and undertakings herein contained, by or on behalf of the Railway Company, shall bind and be binding upon its successors or assigns, whether so expressed or not.

FIFTEENTH.—The Trustee shall not be answerable for the default or misconduct of any attorney, clerk, or agent appointed by it in pursuance hereof, if such attorney, clerk or agent be selected with reasonable care, nor for any error or mistake made by it in good faith, but only for gross negligence or wilful default in the discharge of its duties as such Trustee. The Trustee shall not be individually liable for any debts contracted or any liabilities incurred by it, nor for any damage to persons or property carried or injured, nor for salaries or non-fulfilments of contracts during any period in which the Trustee shall manage the trust property, upon entry or voluntary surrender as aforesaid, but all such debts and liabilities shall be and constitute a first charge upon the trust funds and property.

SIXTEENTH.—It is further agreed that the whole issue of

Third Mortgage
C. M. Ry. Co.

In case of failure to
elect new trustee,
President of Ry. Co
shall act as Trustee
until place is filled.

Limitation of liability
of Trustee.

Whole issue of bonds
to be delivered to
Trustee.

Third Mortgage
C. M. Ry. Co.

said bonds, to be secured hereby, shall immediately, upon the execution of the same by the Railway Company, as aforesaid, be delivered to the Trustee for certification, from time to time, pursuant to the provisions hereof.

Ry. Co. may redeem
whole issue of bonds
on any interest day
after giving certain
notice.

SEVENTEENTH.—It is further agreed that the Railway Company shall have the right to redeem the entire issue of the bonds secured hereby, at the par value thereof, upon any day after the date of said bonds, upon which interest is payable, and upon giving notice of its election so to do, by publication, six times each week for not less than six successive weeks preceding the interest day upon which it is proposed to make such redemption, in at least one newspaper published in the City of New York, New York, and in at least one newspaper published in the City of Denver, Colorado. Such redemption shall be made at the office of the Trustee, and if on or before the interest day, upon which the Railway Company shall have elected to redeem said bonds, it shall deposit with the Trustee or in such depository as the Trustee may designate, the amount of money necessary to redeem the principal of said bonds then outstanding, with interest due thereon upon such proposed day of redemption, all interest upon said bonds thereafter shall cease, and all coupons attached thereto be delivered up and cancelled.

Defeasance clause.

EIGHTEENTH.—If the Railway Company shall well and truly pay, or cause to be paid, all the bonds to be issued hereunder, or entitled to the protection of this indenture, and the coupons thereto attached, at the times and in the manner therein specified, or shall exercise its right to redeem the same as aforesaid, and shall well and truly keep and perform the covenants and undertakings herein and hereby required to be kept and performed by it, according to the true intent and meaning of this indenture, then, and in that case, all property, rights and interests, hereby conveyed, shall revert to the Railway Company, and the estate, right, title and interest of the said Trustee aforesaid, its successor or successors, shall thereupon cease, determine and become void; otherwise the same shall be, continue and remain in full force and virtue.

Provision for
execution of seven
originals for purposes
of recording.

AND INASMUCH as it is intended that this indenture shall be simultaneously recorded in the proper offices in each of the several counties of Colorado, wherein the railway prop-

erty and premises conveyed hereby, or intended so to be, or some part thereof, is situated, or as nearly at the same time as possible, *this indenture further witnesseth*: That, although seven copies, or counterparts thereof, are simultaneously executed by the Railway Company, under its corporate seal and attested by its President and Secretary, in pursuance of a resolution of its Board of Directors, and delivered to the said Trustee, and the said Trustee in evidence of its acceptance of the trust hereby created, has likewise, to each of the said seven copies or counterparts, affixed its corporate seal and caused the same to be subscribed by its President, simultaneously, to the end that one thereof may be recorded in each of the said counties as aforesaid, all such copies and counterparts, so executed and delivered, each as an original, shall constitute but one instrument.

Third Mortgage
C. M. Ry. Co.

IN WITNESS WHEREOF, the said, The Colorado Midland Railway Company, the party of the first part, has caused these presents to be executed, on its behalf by its President, and its corporate seal, attested by its Secretary, to be hereunto affixed, and the said Central Trust Company of New York, the party of the second part, in evidence of its acceptance of the trust hereby created, has likewise caused these presents to be executed, on its behalf, by its President, and its corporate seal, attested by its Secretary, to be hereunto affixed.

Attesting clause.

THE COLORADO MIDLAND RAILWAY COMPANY.

By JOHN SCOTT,
President.

Attest:

E. W. SELLS,
[SEAL] *Secretary.*

(Seven originals executed.)

CENTRAL TRUST COMPANY OF NEW YORK.

By F. P. OLCOTT,
President.

Attest:

B. G. MITCHELL,
[SEAL] *Assistant Secretary.*

Third Mortgage
C. M. Ry. Co.
Acknowledgment
of Ry. Co.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

On this 12th day of July, 1888, before me, Lewis B. Johnson a Notary Public within and for said county, in said State, personally appeared John Scott and E. W. Sells, each to me personally known, and known to me to be respectively the President and the Secretary of the said, The Colorado Midland Railway Company, and each acknowledged that he executed the foregoing instrument in his respective capacity of President and Secretary of the said, The Colorado Midland Railway Company, as the free and voluntary act of the said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

Affidavit of President
and Secretary as to
corporate seal and au-
thority to affix the
same.

And the said John Scott and E. W. Sells, being each by me duly sworn, did depose and say, each for himself, and that the seal affixed to the foregoing instrument is the corporate seal of the said, The Colorado Midland Railway Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year above mentioned.

LEWIS B. JOHNSON,
Notary Public.

[NOTARIAL SEAL]

My commission expires Nov. 12, 1891.

Acknowledgment
of Trust Co.

STATE OF NEW YORK, }
COUNTY AND CITY OF NEW YORK, } ss.

On this 17th day of July, 1888, before me, George H. Corey a commissioner of Deeds for the State of Colorado, within and for the State of New York, residing in the City of New York, in the County and State of New York, personally appeared Frederick P. Olcott and B. G. Mitchell, each to me personally known, and known to me respectively as the President and Assistant Secretary of the said, Central Trust Company of New York, and each acknowledged that he executed the foregoing instrument in his respective capacity of President and Assistant Secretary of said, Central Trust Company of New York, as the free and voluntary act of the said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

And the said Frederick P. Olcott and B. G. Mitchell, being each by me duly sworn, did depose and say, each for himself, that the seal affixed to the foregoing instrument is the corporate seal of the said Central Trust Company of New York.

Third Mortgage
C. M. Ry. Co.
Affidavit of President
and Secretary as to
corporate seal and au-
thority to affix same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this day and year above mentioned.

[SEAL] GEO. H. COREY,
Commissioner for the State of Colorado,
Office 60 Wall St. N. Y.

THE FOREGOING MORTGAGE was recorded as follows:—

Recording of
foregoing mortgage.

COUNTY	DATE	BOOK	PAGE
El Paso	July 25, 1888	74	99
Park	July 30, 1888	38	256
Chaffee	July 25, 1888	30	386
Lake	July 25, 1888	118	435
Pitkin	July 27, 1888	60	61
Eagle	July 25, 1888	31	413
Garfield	July 27, 1888	2	523

COLLATERAL TRUST NOTES
OF
THE COLORADO MIDLAND RAILWAY
COMPANY.

Directors' meeting
C. M. Ry. Co.
April 3, 1889.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE COLORADO MIDLAND RAILWAY COMPANY, HELD ON APRIL 3D, 1889.

On motion of Mr. Busk seconded by Mr. Thompson the following resolution was adopted :

Resolution
authorizing issue of
\$300,000 of seven per
cent. collateral Trust
Notes.

RESOLVED, that the resolution adopted at meeting of March 11th regarding the issue of \$300,000 Trust Notes be and is hereby rescinded and in place of it.

The Board resolves that the Chairman of the Board be and he is hereby authorized to borrow from time to time such amounts as may be necessary against the notes of the Company not exceeding \$300,000 in all at not over 7% interest—said notes to be dated May 1st, 1889 and to run one, two and three years in equal amounts, and as security for the payment of such notes he may pledge to the purchasers of the same in the hands of trustees to be appointed hereafter as collateral security 3rd Mortgage Bonds of the Company at 40. The holders of all or any of the notes to have the option on or before twelve months from the date thereof taking in payment of such notes 3rd Mortgage Bonds at 65 and interest with the current coupon on.

F. F. Thompson and
W. H. Reese
appointed Trustees.

On motion of Mr. Busk seconded by Mr. Jevons, Messrs. F. F. Thompson and W. H. Reese were appointed trustees in accordance with the resolution authorizing the issue of \$300,000 of the Company's Notes.

IN ACCORDANCE WITH the foregoing action of the Directors of The Colorado Midland Railway Company an indenture securing the said Collateral Trust Notes of said Company was made on May 1, 1889 between The Colorado Midland Railway Company and Frederick F. Thompson and William Henry Reese, Trustees. The said Collateral Trust Notes were limited to three hundred thousand dollars; were all dated May 1, 1889 and bore interest at the rate of seven per cent. per annum, payable semi-annually on the first days of November and May in each year.

Indenture made and Collateral Trust Notes issued in accordance with foregoing resolution.

The principal of the said Notes numbered from 1 to 100 inclusive was payable on May 1, 1890, the principal of the said notes numbered from 101 to 200 inclusive was payable on May 1, 1891, and the principle of the said notes numbered from 201 to 300 inclusive was payable on May 1, 1892. Those of the said notes which were due on May 1, 1890 were renewed for two years, making them due May 1, 1892. Those of the said notes which were due May 1, 1891 were paid at maturity, and the notes due May 1, 1892, including both those originally payable at that date and those extended thereto, were paid at said date.

Times of payment.

Payment and discharge of all the collateral Trust Notes.

The Third Mortgage Bonds of The Colorado Midland Railway Company amounting to \$750,000, which had been deposited with the Trustees as security for the said notes, were returned to the said Railway Company when the notes were paid, and the said Railway Company exchanged said Third Mortgage Bonds for a corresponding amount of the Consolidated Mortgage Four Per Cent. Bonds of said Railway Company in accordance with the provisions of the Consolidated Mortgage.

Third Mortgage bonds deposited as collateral returned to Ry. Co. and exchanged for consolidated mortgage bonds.

On January 13, 1890, the Directors of the Colorado Midland Railway authorized a further issue of Collateral Trust Notes limited to an amount not exceeding \$200,000, to be called Series B, but the said authority was never used, and none of the said Series B Notes were ever issued.

Further issue of Collateral Trust Notes authorized but never made.

CIRCULAR AND PLAN OF CONVERSION
OF
THE COLORADO MIDLAND RAILWAY
COMPANY
PROPOSING A CONSOLIDATED MORTGAGE.

OFFICE OF
The Colorado Midland Railway Company,
62 CEDAR STREET.

Sept. 9, 1889.

NEW YORK, September 9th, 1889.

Dear Sir :

Acting on the suggestion of some of the largest holders of the securities of the Colorado Midland Railroad, the Board of Directors has decided, subject to the approval of the Stockholders, to create a new consolidated mortgage for the purpose of converting into a uniform security all the junior liens

The new issue will consist of \$6,000,000 4% fifty year Gold Bonds, coupons payable February and August, (first coupon payable August 1890) secured by the property of the Company, including the Jerome Park branch and the Aspen Short Line.

In effecting the conversion the new bonds will be valued at 75, and the issue will be disposed of as follows :

\$2,000,000	to the holders of the \$1,500,000 Second Mortgage Bonds, which with all coupons attached will be valued at par.
2,015,000	to the holders of the \$2,150,000 Third Mortgage Bonds, which with all coupons attached will be valued at 70. (From the 4% Bonds, the coupons due August, 1890 and February and August, 1891, will be cut off and cancelled.
400,000	will be reserved for the conversion or payment at maturity of the \$300,000 Trust Notes.
147,000	will be reserved for the purchase or conversion of the \$110,000 Aspen Short Line Bonds, which the Railroad has the right of redeeming at par.
1,438,000	will be held in the treasury to provide funds for improvements as required, subject to stringent clauses respecting their issue.
<hr/> \$6,000,000	

To show the working of the scheme, I append a statement showing the annual burden on the road in its present condition, and as it will be after conversion is effected. As matters now stand, the payment of \$225,000 of Second Mortgage coupons will become obligatory in 1891; and of \$582,930 Third Mortgage coupons in 1893. As these amounts cannot be paid out of net earnings, some arrangement for funding them is necessary.

Circular of
C. M. Ry. Co.
proposing conversion
plan and Consolidated
Mortgage.

I also append a statement of the net earnings of the road in 1888 and to date in 1889; it is believed that they furnish satisfactory evidence of the ability of the road to fully meet the reduced burden of interest contemplated, and to render the new bonds a salable security.

Application for the listing of the first \$2,000,000 Bonds will be made immediately; and for the remainder as fast as the rules of Stock Exchange permit.

I enclose a Form of Assent which please return with your signature.

Yours respectfully,

SAML. S. SANDS,

Chairman.

For the First Mortgage of the Aspen Short Line Railway Company, the redemption of the bonds under which was provided for by the Consolidated Mortgage of The Colorado Midland Railway Company, as mentioned in the foregoing Circular, see *post*, p. 749.

STATEMENT REFERRED TO IN THE FOREGOING CIRCULAR.
Comparison of Annual Requirements before and after Proposed Conversion of Colorado
Midland Junior Bonds

	1890	1891	1892	1893
PRESENT ANNUAL REQUIREMENTS, WHICH WILL BE AFFECTED BY CONVERSION.				
Interest on 2d Mortgage Bonds,	—	90,000	90,000	90,000
" " 3d "	—	—	—	129,540
" " Trust Notes,	17,500	10,500	3,500	—
" " Aspen Short Line Bonds,	8,800	8,800	8,800	8,800
Total Amount subject to Conversion,	—	—	—	—
Amount required for payment of Trust Notes,	100,000	100,000	100,000	—
" " " Back Coupons, 2d Mortgage,	—	225,000	—	—
" " " 3d "	—	—	—	582,930
	\$126,300	\$434,300	\$202,300	\$811,270
ANNUAL REQUIREMENTS, WHICH WILL NOT BE AFFECTED BY CONVERSION.				
Interest on 1st Mortgage Bonds, \$6,250,000 outstanding,	375,000	375,000	375,000	375,000
" " Equipment Bonds, 500,000 "	35,000	33,250	29,750	26,250
Taxes,	60,000	60,000	60,000	60,000
Amount required for redemption of Equipment Bonds,	—	52,500	52,500	52,500
	470,000	520,750	517,250	513,750
Total Annual Requirements before Conversion,	\$596,300	\$955,050	\$719,550	\$1,825,020

FUTURE ANNUAL REQUIREMENTS, AFTER CONVERSION IS EFFECTED.				
Interest on \$2,000,000 New Bonds (in lieu of 2d Mortgage)	40,000	80,000	80,000	80,000
" " 2,015,067 " " " 3d "	—	—	80,603	80,603
" " 400,000 " " " Trust Notes,	20,167	18,500	16,833	16,000
" " 146,667 " " " Aspen Short Line Bonds,	5,867	5,867	5,867	5,867
Total, . \$4,561,734	66,034	104,367	183,303	182,470
Add Requirements not affected by Conversion,	470,000	520,750	517,250	513,750
Total Annual Requirements after Conversion,	\$536,034	\$625,117	\$700,558	\$696,220

STATEMENT OF GROSS AND NET EARNINGS DURING 1888 AND 1889.

	GROSS EARNINGS.		NET EARNINGS.	
	1889	1888	1889	1888
January,	\$113,054	\$85,517	\$23,007	\$16,042 Def.
February,	120,311	84,609	31,625	15,676 Def.
March,	142,496	91,963	49,836	6,783
April,	126,951	114,258	38,239	28,862
May,	143,718	134,863	50,658	38,833
June,	143,669	112,295	51,100	20,044
July,	140,363	120,882	45,400	29,574
Total for Seven Months,	\$980,562	\$744,897	\$289,865	\$92,878
August,		115,969		36,257
September,		122,376		39,182
October,		132,481		34,736
November,		126,084		27,332
December,		128,113		33,882
		\$1,369,410		\$263,767

CONSOLIDATED MORTGAGE,
OF
THE COLORADO MIDLAND RAILWAY
COMPANY.

Jan. 1, 1890.

Parties.

THIS INDENTURE, Made and entered into this second day of January in the year one thousand eight hundred and ninety, by and between The Colorado Midland Railway Company, hereinafter termed "The Railway Company," a corporation duly organized and existing under and by virtue of the laws of the State of Colorado, party of the first part, and the Central Trust Company of New York, hereinafter termed "the Trustee," or "the said Trustee," a corporation duly organized and existing under and by virtue of the laws of the State of New York, party of the second part, WITNESSETH; that,

Authorized lines.

WHEREAS, The Railway Company is, under and by virtue of the laws of the State of Colorado and of its certificate of incorporation and the several amendments thereto, authorized to construct, maintain and operate a railway and telegraph line from the City of Colorado Springs, El Paso County, Colorado, through the Ute Pass into the South Park, and by the most eligible route to Leadville, in Lake County; also from Leadville westward to the City of Aspen, and through Pitkin, Eagle and Garfield Counties, by the most eligible route to the western boundary of the State of Colorado, with various branches in said amended certificate of incorporation particularly described, and has, in pursuance of the authority to it granted, as aforesaid, constructed, and is now engaged in the operation of, its railway and telegraph line from the said City of Colorado Springs to said City of Leadville, and from the said City of Leadville to a point at or near the mouth of Elk Creek, Garfield County, aforesaid; also a branch from Aspen Junction, Eagle County, to the City of Aspen, Pitkin County, said branch being commonly

or deed of trust. Said Railway Company hereby waives the benefit of any extension, stay or appraisement laws now existing, or that may hereafter exist. This bond shall pass by delivery, unless registered, and if registered, by transfer on the books of said Railway Company, at its agency in the City of New York. If registered, no transfer, except on said books, shall be valid, unless the last transfer shall have been to bearer, which shall restore transferability by delivery; but this bond shall continue subject to successive registrations and transfers to a party named, or to bearer, as aforesaid, at the option of each holder. This bond shall not become obligatory upon said Railway Company until the certificate indorsed hereon, shall be signed by said Trustee.

Consolidated
Mortgage
C. M. Ry. Co.
Form of bond.

IN WITNESS WHEREOF, the said, The Colorado Midland Railway Company has caused its corporate seal to be affixed hereto and attested by its Secretary and this bond to be subscribed by its President, and has likewise caused a *fac-simile* of the signature of its Treasurer to be engraved on each of the annexed coupons this first day of February, 1890.

THE COLORADO MIDLAND RAILWAY COMPANY.

By

President.

Attest:

Secretary.

[FORM OF EACH INTEREST COUPON.]

\$20.00

THE COLORADO MIDLAND RAILWAY COMPANY will pay the bearer, at its fiscal agency, in the City of New York, twenty dollars in gold coin of the United States of America, on the first day of , being six months' interest on its bond No.

CHAS. E. NOBLE,

Treasurer.

Consolidated
Mortgage
C. M. Ry. Co.

ing to said Trustees all of its railway property and franchises, by the terms of which said deed of trust it was, among other things, provided that the said The Aspen Short Line Railway Company, its successors, assigns or lessees, should have the right, upon certain conditions and at certain dates therein particularly set forth, to purchase or redeem the entire issue of the Bonds secured thereby, or any part of the same, at the par value thereof; and

Lease of Aspen
Short Line to
C. M. and provision
thereof as to
option to purchase
or redeem first
mortgage bonds.

WHEREAS, The said railway property and franchises were thereafter by indenture dated April 1, 1889, leased by the said The Aspen Short Line Railway Company to the said Railway Company, party of the first part, and it was by said indenture of lease, among other things, provided that the Railway Company should have the right or option of purchasing or redeeming said First Mortgage Bonds, of the said The Aspen Short Line Railway Company, in accordance with provisions in the said deed of trust contained; and

Proposed issue of
consolidated
mortgage bonds.

WHEREAS, The Railway Company, for the purpose of converting into a uniform security all of the bonds and notes issued by it, as aforesaid, excepting its said First Mortgage Bonds, and of enabling it to avail itself of its right to purchase or redeem the said bonds of the said The Aspen Short Line Railway Company, and for the further purpose of reducing its annual interest charges, and for other purposes hereinafter set forth, has determined to execute and issue its Consolidated Mortgage Gold Bonds, for the principal sum of six million dollars (\$6,000,000), of the denomination of one thousand dollars (\$1,000) each, numbered from one (1) to six thousand (6,000), inclusive, dated February 1, 1890, maturing fifty (50) years after the date thereof, and bearing interest at the rate of four (4) per cent. per annum, payable in semi-annual coupons on the first days of February and August in each year; and to secure the payment of said bonds, principal and interest, has determined to execute a mortgage or deed of trust, conveying to the Central Trust Company of New York, as Trustee, so much of the railway, railways and railway property of the Railway Company as belongs, or is appurtenant to, its constructed road above described; and

Resolution of
stockholders.

WHEREAS, At a special meeting of the stockholders of the Railway Company called for that purpose the holders of more than a majority of the stock did, by resolution, author-

ize the execution and issue of such Consolidated Mortgage Gold Bonds to the aggregate amount of six million dollars (\$6,000,000) and did authorize the execution and delivery of this mortgage or deed of trust, to secure the payment of the said bonds at any time outstanding, and of the interest thereon; and

Consolidated
Mortgage
C. M. Ry. Co.

WHEREAS, The Board of Directors of the Railway Company has also, by like resolution, authorized the execution and issue of said bonds and the execution and delivery of this mortgage or deed of trust; and

Like resolution
of directors.

WHEREAS, In pursuance of said resolutions and of the authority in it vested by the laws of the State of Colorado, the Railway Company has determined to issue said bonds, and to secure the payment of the same, principal and interest, by this mortgage or deed of trust, such bonds to stand equally and ratably secured hereby, without any preference whatever arising from the time of issuing or otherwise, and in the manner and on the conditions herein provided, and each of said bonds to be executed under the corporate seal of the Railway Company, signed by its President or Vice-President and attested by its Secretary, and the interest coupons to be authenticated by and with the engraved signature of its Treasurer, and each of said bonds being so signed, sealed, executed and authenticated, to be countersigned or certified by the Trustee, which countersigning or certifying shall be conclusive and the only conclusive evidence that such bond is secured by this indenture; and

Proposed mortgage.

Manner of
execution and
certification of bonds.

WHEREAS, It has been determined that said bonds shall be substantially in the following form:

Form of bond.

UNITED STATES OF AMERICA,
STATE OF COLORADO.

THE COLORADO MIDLAND RAILWAY COMPANY.

Consolidated Mortgage, Four Per Cent. Fifty Years' Gold Bond.

TOTAL AUTHORIZED ISSUE,	\$6,000,000.00
No.	\$1,000.00

FOR VALUE RECEIVED, The Colorado Midland Railway Company, a corporation of the State of Colorado, promises

Consolidated
Mortgage
C. M. Ry. Co.
Form of bond.

to pay to the bearer of this bond, or if registered, to the registered owner thereof, at its agency, in the City of New York, on the first day of February, nineteen hundred and forty, one thousand dollars in gold coin of the United States, of or equal to the present standard, with interest thereon in like gold coin, at the rate of four per cent. per annum, from the first day of February, eighteen hundred and ninety, payable at said agency, semi-annually, on the first days of February and August of each year, upon presentation and surrender of the annexed interest coupons as they severally become due. This Bond is one of a series of Mortgage Bonds, each of the denomination of one thousand dollars, numbered consecutively from 1 to 6,000 inclusive.

The holder hereof is entitled to the security of a mortgage or deed of trust, dated January 2d 1890, executed by the said Railway Company to the Central Trust Company of New York, as Trustee, and duly recorded and conveying to said Trustee, all of the railway property and franchises of said Railway Company now owned or hereafter to be acquired, as specified in said mortgage or deed of trust, belonging or appertaining to so much of its main line of railway as lies or shall hereafter be constructed between Colorado Springs, El Paso County, Colorado, and New Castle, Garfield County, Colorado, also the Aspen Branch and the Jerome Park Coal Branch; to which mortgage or deed of trust reference is hereby made for a description of the property and franchises mortgaged, and the terms and conditions upon which this bond is issued and secured. SUBJECT, HOWEVER, as to such parts thereof as are charged therewith to the prior lien of a deed of trust; dated July 15th 1886, and given to secure the First Mortgage Bonds of said Railway Company to the amount of six million two hundred and fifty thousand dollars.

If default shall be made in the payment of any installment of interest, when the same shall become due and be demanded, and such default shall continue for six months after such demand, the principal of this bond shall become due and payable in the manner provided in said mortgage

or deed of trust. Said Railway Company hereby waives the benefit of any extension, stay or appraisal laws now existing, or that may hereafter exist. This bond shall pass by delivery, unless registered, and if registered, by transfer on the books of said Railway Company, at its agency in the City of New York. If registered, no transfer, except on said books, shall be valid, unless the last transfer shall have been to bearer, which shall restore transferability by delivery; but this bond shall continue subject to successive registrations and transfers to a party named, or to bearer, as aforesaid, at the option of each holder. This bond shall not become obligatory upon said Railway Company until the certificate indorsed hereon, shall be signed by said Trustee.

Consolidated
Mortgage
C. M. Ry. Co.
Form of bond.

IN WITNESS WHEREOF, the said, The Colorado Midland Railway Company has caused its corporate seal to be affixed hereto and attested by its Secretary and this bond to be subscribed by its President, and has likewise caused a *fac-simile* of the signature of its Treasurer to be engraved on each of the annexed coupons this first day of February, 1890.

THE COLORADO MIDLAND RAILWAY COMPANY.

By

President.

Attest:

Secretary.

[FORM OF EACH INTEREST COUPON.]

\$20.00

THE COLORADO MIDLAND RAILWAY COMPANY will pay the bearer, at its fiscal agency, in the City of New York, twenty dollars in gold coin of the United States of America, on the first day of , being six months' interest on its bond No.

CHAS. E. NOBLE,

Treasurer.

Consolidated
Mortgage
C. M. Ry. Co.

[FORM OF TRUSTEE'S CERTIFICATE.]

THE CENTRAL TRUST COMPANY of New York hereby certifies that the within bond is one of the bonds issued in conformity with and described in the mortgage or deed of trust first mentioned within.

CENTRAL TRUST COMPANY OF NEW YORK, *Trustee.*

By

Vice-President.

Purposes for which
bonds issued
hereunder are
to be used.

AND WHEREAS, It is further agreed by the Railway Company, as a covenant and condition of this mortgage or deed of trust, and of the certification and issue of said bonds to it by the Trustee, that all and singular of said bonds, so to be certified and issued, shall be faithfully applied to the purposes hereinbefore specified, viz; The exchange, redemption or payment of said Second Mortgage Bonds, to the amount of one million five hundred thousand dollars (\$1,500,000); the exchange, redemption or payment of said Third Mortgage Bonds outstanding, to the amount of two million one hundred and fifty-nine thousand dollars (\$2,159,000); the exchange, conversion or payment of the said collateral Trust Notes, to the amount of three hundred thousand dollars (\$300,000), and the redemption of the said Third Mortgage Bonds held as collateral security for the payment of said notes; the redemption or purchase of the said Mortgage Bonds of the said The Aspen Short Line Railway Company, and the procuring or providing of funds for necessary improvements made and to be made upon, and additions to, the railway and railway property of the Railway Company, and shall be certified by the Trustee and delivered to the Railway Company, or upon its order, as hereinafter provided. No bond to be issued under the provisions of this mortgage or deed of trust by the Railway Company, shall be obligatory upon it, until the Trustee shall endorse thereon and duly sign a certificate, substantially in the form hereinbefore described.

Granting clause.

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Railway Company, party of the first

part, in consideration of the premises, and of one dollar to it in hand paid by the said Trustee, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the punctual payment of the principal and interest of the bonds aforesaid, to be issued, as hereinbefore mentioned, hath granted, bargained, sold, assigned, transferred, set over, released, conveyed and confirmed, and by these presents does grant, bargain, sell, assign, transfer, set over, release, convey and confirm unto the Trustee, party of the second part, and to its successor or successors in trust herein, all the right, title interest and claim or demand whatsoever, which the Railway Company now has, or is entitled to, or which it shall or may at any time acquire, by or on account of its certificate of incorporation, or any amendment or amendments thereto or otherwise, of, in, and to the corporate franchise to survey, locate, construct, maintain, use and operate the line of railway and telegraph, hereinbefore particularly described, namely: From the City of Colorado Springs to the City of Leadville, and from the City of Leadville to the mouth of Elk Creek, on the Grand River, Garfield County, and from said point known as "Aspen Junction," near the confluence of Frying Pan Creek and Roaring Fork Creek, to and through the City of Aspen, to a point on Smuggler Mountain, said last named line being known as the "Aspen Branch," and from said point known as "Cardiff," near the confluence of Roaring Fork Creek and Four Mile Creek, to a point on or near North Thompson Creek, Pitkin County, said last named line being known as the "Jerome Park Coal Branch," together with its said railways and lines of railway, located and to be located, between said points, and now constructed, or in contemplation, or in process of construction, and hereafter to be completed, and all its right, title and interest in and to the line of telegraph between said points, also any and all interest which the Railway Company may now have or may hereafter acquire, in and to the railway, railways, railway property and corporate franchises of the said The Aspen Short Line Railway Company, being in

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Mortgage
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Description of
franchises and
property mortgaged.

Consolidated
Mortgage
C. M. Ry. Co.
Description of
franchises and
property mortgaged
(continued).

all two hundred and seventy-six (276) miles of railway, more or less, and all the rolling stock and equipment of whatever nature or kind, owned and hereafter to be owned by the Railway Company for the purpose of operating said line of railway and telegraph, above particularly described, or purchased with the proceeds of said bonds; also all the lands, tenements and hereditaments acquired or appropriated, or which may hereafter be acquired or appropriated for the purpose of right of way for said line of railway above described, and all the easements or appurtenances, thereunto belonging, or in any way appertaining, and all railways, ways and rights of way, depot grounds, tracks, bridges, viaducts, culverts, fences and other structures, engine-houses, freight-houses, car-houses, wood-houses, ware-houses, machine-shops, work-shops, superstructures and erections, whether now in existence, or hereafter at any time acquired for the use of, or in connection with said line of railway, above described; also all rails, ties, chairs, machinery, tools, implements, fuel and materials whatsoever, for or in respect of the constructing or replacing of said line of railway and telegraph, above described, or any part thereof, whether now held or owned, or hereafter to be acquired by the Railway Company, together with all equipment and appurtenances whatsoever, thereunto belonging, whether now held or hereafter acquired; also all replacements and renewals and all franchises connected with, or belonging to, said line of railway and telegraph, above described, or to the construction, maintenance or use thereof, now held or hereafter to be acquired by the Railway Company, and all corporate franchises of any nature, relating to said line of railway and telegraph above described, which are now, or may hereafter be possessed or exercised by the Railway Company, together with all and singular the endowments, income, advantages, tenements, hereditaments and appurtenances to the said above described line of railway and telegraph belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, tolls, incomes, rents, profits and issues thereof; also all the estate, right, title, inter-

est, property, possession, claim and demand whatsoever, as well in law as in equity, present or prospective, of the Railway Company, in and to the said line of railway and telegraph above described, and every part of same, and every parcel thereof, with the appurtenances, *subject, however,* except as to said Jerome Park Coal Branch, to the prior lien of the said deed of trust, dated July 15, 1886, and given by the Railway Company to secure its First Mortgage Bonds to the amount of six million two hundred and fifty thousand dollars (\$6,250,000).

Consolidated
Mortgage
C. M. Ry. Co.

Subject except as
to Jerome Park Coal
Branch to first
mortgage of
July 15, 1886.

TO HAVE AND TO HOLD all and singular the above described premises, property rights, franchises and appurtenances, subject to said prior lien, to the Trustee, party of the second part, its successor or successors, to the only proper use and behoof of the Trustee, its successor or successors, in trust for the equal *pro rata* benefit and security of all and every of the persons, corporations or partnership firms who or which shall, at any time, be or become the holders of any of said bonds, subject to the terms, provisions, covenants and stipulations in said bonds contained, without any preference or priority of any one bond over another, by reason of priority in time of issuance or negotiation thereof, or otherwise; it being, however, declared to be the true intent and meaning of these presents that the Railway Company, party of the first part, shall and doth convey to the Trustee, party of the second part, subject to said prior lien, all and all manner of franchises, of every kind and description, however derived, and all manner of real estate, or interest therein, and all manner of personal property, of whatever nature or description the same may be, at the date of these presents owned or possessed by the Railway Company, or which may at any time hereafter, during the continuance of this trust, be acquired by the Railway Company, and which are a part of, or belong to, or are necessary to the construction, maintenance or operation of its said line of railway and telegraph lying between the City of Colorado Springs and the City of Leadville, and between the City of Leadville and the mouth of Elk creek, on the Grand river, Garfield County,

Habendum clause.

What intended to
be included in
mortgage.

Consolidated
Mortgage
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and between said point on the main line known as "Aspen Junction," near the confluence of Frying Pan Creek and Roaring Fork Creek and said point on Smuggler Mountain, Pitkin County (known as the "Aspen Branch"), and between said point on the main line known as "Cardiff," near the confluence of Roaring Fork Creek and Four Mile Creek, Garfield County, and said point on North Thompson Creek, Pitkin County, (known as the "Jerome Park Coal Branch"), also any and all interest which the Railway Company now has, or may hereafter acquire, in and to the railway, railway property and corporate franchises of the said The Aspen Short Line Railway Company, and no more, the same being two hundred and seventy-six miles of railway, more or less, and it being distinctly understood and agreed that the lien of this Deed of Trust shall extend to and cover only its said line of railway and telegraph, above particularly described, and shall not in any manner affect, or become a lien upon, any other line of railway or telegraph which the Railway Company may hereafter construct or in any manner acquire, except to the extent to which the proceeds of said bonds may be used for the construction of such other line; in trust, nevertheless, for the uses and purposes herein declared and expressed, as follows, to wit:

ARTICLE I.

Bonds limited to
\$6,000,000.

Purposes for which
bonds may be issued.

\$2,000,000 for second
mortgage bonds.

\$2,015,000 for third
mortgage bonds.

The Bonds to be issued under and secured by this Indenture, and which are herein designated as Consolidated Mortgage Gold Bonds, shall not exceed in the aggregate six million dollars (\$6,000,000), and shall be used only for the following purposes, to wit:

First—Two million dollars (\$2,000,000), or so many thereof as shall be required, shall be issued and used in exchange for, or for the redemption or payment of, the said Second Mortgage Bonds.

Second—Two million and fifteen thousand (\$2,015,000) dollars, or so many thereof as shall be required, shall be issued and used in exchange for, or for the redemption or

the said railway property, premises, or upon any part thereof, the lien whereof might or could be held to be superior to the lien of this indenture, so that the priority of this indenture shall at all times be duly maintained and preserved; and will at all times keep insured, in good, safe and reliable insurance companies, its rolling stock, tools and machinery, buildings, bridges and other structures, erected or to be erected by it, or on its said premises, and all other such property, provided for use and used by it, in connection with the line of railway or telegraph herein described and hereby conveyed, as is usually insured by railway companies, and in the same manner and to the same extent; and will at all times diligently preserve all the rights and franchises to it granted and upon it conferred by the laws of the State of Colorado; and will at all times, maintain, preserve and keep, all and singular, the said line of railway and telegraph now owned or possessed, or which may hereafter be constructed or acquired by it, and extending from Colorado Springs to Leadville, and from Leadville to the mouth of Elk creek, and said Aspen Branch and said Jerome Park Coal Branch, and every part thereof, with the rolling stock, fixtures, and appurtenances, and every part and parcel thereof, in good repair, working order and condition, and fully supplied with motive power, rolling stock and equipment; and shall and will, from time to time, make all needful and proper repairs, renewals and replacements, useful alterations, additions and improvements, so that the traffic and business of said line of railway and telegraph, and of every part thereof, shall at all times be done with safety and expedition.

Consolidated
Mortgage
C. M. Ry. Co.

ARTICLE V.

In case default shall be made by the Railway Company in the payment of the principal of, or of any interest on, any of the bonds secured by this indenture, according to the tenor and effect of such bonds and the coupons thereto annexed, and such default shall continue for the period of six months after payment of the same shall have been duly

On default continued
for six months,
Trustee may enter and
take possession, and
must do so on written
request of majority of
outstanding bonds.

Consolidated
Mortgage
C. M. Ry. Co.

Company, accompanied by a resolution of its Board of Directors or Executive Committee duly certified under its corporate seal, stating the amounts required and the purposes for which the bonds are to be used, and accompanied also by an affidavit of its General Manager or Chief Engineer, showing that improvements upon or additions to the property of the Railway Company, of the actual cost of the amount of bonds which the Trustee is requested to certify and deliver, have been made and completed, and stating also the character and location of such improvements or additions, which affidavit shall be conclusive evidence to the Trustee of the truth of the statements therein contained. The Trustee shall be authorized and required to countersign and deliver the bonds necessary for any of the purposes above mentioned in paragraphs *First*, *Second*, *Third* and *Fourth*, upon receiving a resolution of the Board of Directors or Executive Committee of the Railway Company, duly certified under its corporate seal, stating the amounts required and the purposes for which the bonds are to be used. Such certified resolution and affidavit in the one case, and such certified resolution in the other case, shall be full authority and protection to said Trustee in certifying and delivering said bonds, and no duty is imposed upon the Trustee to look behind such resolution before certifying said bonds and delivering the same.

ARTICLE II.

Second and Third
Mortgage bonds and
Trust Notes shall,
as acquired by
exchange, be
delivered to Trustee
hereunder and
registered in its
name.

And, in order fully to secure the holders of the said Consolidated Mortgage Gold Bonds, it is hereby further declared and agreed, that the said Second Mortgage Bonds, the said Third Mortgage Bonds, and the said Trust Notes, together with the said Third Mortgage Bonds held as collateral security by the said Thompson and said Reese for the payment of the said Trust Notes, shall, from time to time, as the same shall be withdrawn or exchanged for said Consolidated Bonds, as hereinabove provided, be delivered to and registered in the name of the Central Trust Com-

entry, it shall be lawful for the Trustee, its agents or attorneys, from time to time, to insure or keep insured, at the expense of the trust estate, the rolling stock, tools and machinery, buildings, bridges and other structures, erected and provided for use in connection with said railway, whereof it shall become possessed, in the same manner and to the same extent as the Railway Company might have done; and to collect and receive all tolls, freights or incomes, rents, issues and profits of the same, and every part thereof; and after deducting the expense of operating said railway and conducting the business thereof, and of all repairs, replacements, alterations and additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and other proper charges upon the said premises and property, or any part thereof, as well as a just and reasonable compensation for its own services and the services of all attorneys, agents, clerks, servants and other employees, by it properly engaged or employed, to apply the moneys arising as aforesaid, to the payment of the interest in arrear, if any, or which shall after such entry become due and payable, on the outstanding bonds secured hereby, in the order in which such interest shall become due and payable, ratably to the person or persons holding the coupons therefor, without any discrimination or preference between them on account of the date or dates of the maturing of said bonds, or the times of the actual issue thereof; and if, after paying all such interest, a surplus shall remain, such surplus shall be applied to the satisfaction of the principal of said bonds, at the time due and unpaid, ratably, without discrimination or preference as aforesaid.

Consolidated
Mortgage
C. M. Ry. Co.

ARTICLE VI.

In case default shall be made by the Railway Company in the payment of the principal of, or of any interest upon, any of said bonds, as aforesaid, and such default shall continue for the period of six months after demand in writing made for payment, as aforesaid, it shall be lawful for the

Power of sale
on default.

Consolidated
Mortgage
C. M. Ry. Co.

Provision as to
early coupons of
First and Second
Mortgage bonds.

mating such withdrawn bonds and notes at the rate at which they may have been exchanged for said Consolidated Bonds, in such manner as shall be directed by the holders of a majority in amount of said Consolidated Bonds, in respect of which such default in interest shall have occurred; and they shall apply the moneys which may be due on the Consolidated Bonds in the order in which such interest shall have matured. All interest coupons on said Second Mortgage Bonds numbered one (1), two (2), three (3) and four (4), and all interest coupons on said Third Mortgage Bonds numbered one (1), two (2), three (3), four (4), five (5), six (6) and seven (7) shall be delivered to and registered in the name of the said Trustee, together with the bonds so withdrawn and exchanged to which such coupons respectively belong, and shall be held by said Trustee upon the same terms and conditions, as to payment and enforcement thereof, as the withdrawn bonds.

ARTICLE III.

Possession of
mortgagor until
default.

Until by the express condition of this indenture the right of entry shall accrue to the Trustee, the Railway Company, its successors or assigns, shall be permitted to possess, manage, use and enjoy, all and singular, the said property, including the said railway or railways, with their appurtenances, equipment, and their said franchises, and to take and use the rents, incomes, profits, tolls and issues thereof, in the same manner and with the same effect as if this indenture had not been made.

ARTICLE IV.

Covenants of
Ry. Co.

And the Railway Company, in consideration of the premises, covenants, promises and agrees:

That, having possession as aforesaid, it will well and truly pay and discharge, or cause to be paid and discharged, each and every tax and assessment, or other liability and governmental charge, which may, from time to time, be lawfully levied or imposed, by competent authority upon

the said railway property, premises, or upon any part thereof, the lien whereof might or could be held to be superior to the lien of this indenture, so that the priority of this indenture shall at all times be duly maintained and preserved; and will at all times keep insured, in good, safe and reliable insurance companies, its rolling stock, tools and machinery, buildings, bridges and other structures, erected or to be erected by it, or on its said premises, and all other such property, provided for use and used by it, in connection with the line of railway or telegraph herein described and hereby conveyed, as is usually insured by railway companies, and in the same manner and to the same extent; and will at all times diligently preserve all the rights and franchises to it granted and upon it conferred by the laws of the State of Colorado; and will at all times, maintain, preserve and keep, all and singular, the said line of railway and telegraph now owned or possessed, or which may hereafter be constructed or acquired by it, and extending from Colorado Springs to Leadville, and from Leadville to the mouth of Elk creek, and said Aspen Branch and said Jerome Park Coal Branch, and every part thereof, with the rolling stock, fixtures, and appurtenances, and every part and parcel thereof, in good repair, working order and condition, and fully supplied with motive power, rolling stock and equipment; and shall and will, from time to time, make all needful and proper repairs, renewals and replacements, useful alterations, additions and improvements, so that the traffic and business of said line of railway and telegraph, and of every part thereof, shall at all times be done with safety and expedition.

Consolidated
Mortgage
C. M. Ry. Co.

ARTICLE V.

In case default shall be made by the Railway Company in the payment of the principal of, or of any interest on, any of the bonds secured by this indenture, according to the tenor and effect of such bonds and the coupons thereto annexed, and such default shall continue for the period of six months after payment of the same shall have been duly

On default continued for six months, Trustee may enter and take possession, and must do so on written request of majority of outstanding bonds.

Consolidated
Mortgage
C. M. Ry. Co.

demanded in writing, of the Railway Company, or at its agency in the City of New York, or in case default shall be made by the Railway Company, in the payment of any taxes, assessment or governmental charge, lawfully levied and imposed upon the said railway property and premises, or any part thereof, and such default shall continue for the period of six months after such taxes, assessment or governmental charge shall become due and payable; or in case default shall be made by the Railway Company in keeping insured its rolling stock, tools and machinery, buildings, bridges and other structures, as aforesaid, and such default shall continue for a period of ninety (90) days after demand of performance by the Trustee herein; or in case default shall be made by the Railway Company in the due observance of any other of its covenants, promises or agreements herein required to be done, performed or kept by it, and such default shall continue for the period of one year after demand of performance by the Trustee herein, then and in each and every such case of default continued as aforesaid, the Trustee, if it shall elect so to do, may, and if requested in writing by the holders of a majority of the bonds secured hereby and outstanding at the time of such default (and upon being properly indemnified,) shall, by its attorney or attorneys, agent or agents, enter into and upon, all and singular, the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, and each and every part thereof, excluding therefrom the Railway Company, its agents, servants and employees, and have and hold the same; use, operate, manage and control said railway; regulate tolls for the transportation of passengers and freight thereon; and make from time to time, at the expense of the trust estate, all repairs and replacements and such useful alterations, additions and improvements thereto, as well in respect to the rolling stock or equipment as to the railway and its appurtenances, and conduct the business thereof by its attorney, agents, superintendents or managers, as may seem to it judicious and for the best interests as well of the public as of the holders of said bonds; and upon such

the first mortgage bonds hereinbefore mentioned, and the cost and expenses of such sale, for the entire property then held upon the trusts of this indenture, or in amount reasonably proportioned thereto, for any part of the said property. And it is further agreed that the bonds secured hereby outstanding and unpaid, and the overdue coupons thereon, shall be received in payment of so much of the purchase price of any property sold by virtue hereof, as would be properly distributable to and payable thereon.

Consolidated
Mortgage
C. M. Ry. Co.

ARTICLE IX.

In case default shall be made by the Railway Company in the payment of any interest accruing upon any of the said bonds secured hereby, according to the tenor and effect of such bonds and of the coupons thereto annexed, and such default shall continue for the period of six months after demand in writing made for payment, as aforesaid, then, and in such case of default, continued as aforesaid, the principal of all the bonds secured hereby, shall, in case a majority in amount of the holders of said bonds, then outstanding, in writing and under seal, so elect, be and become immediately due and payable, anything herein or in said bonds contained to the contrary notwithstanding. A majority of the holders of said bonds outstanding may in writing under their hands and seals declare, or instruct the Trustee to declare, the said principal to be due, as aforesaid, or waive, or instruct the Trustee to waive, the right so to declare the principal due by reason of such default or defaults, upon such terms and conditions as such majority in amount of the holders of said bonds outstanding shall deem proper; *Provided*, That no such action of said bondholders, or of the Trustee, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

On default continued
for six months,
Trustee may declare
principal due, subject
to control by majority
of outstanding bonds.

ARTICLE X.

The Railway Company hereby covenants and agrees, to and with the said Trustee, on behalf and for the benefit of the holders of the bonds secured hereby, that it will, from

Covenant of
further assurance.

Consolidated
Mortgage
C. M. Ry. Co.

Trustee, after entry, as aforesaid, or after other entry, or without entry, by its attorney or attorneys, agent or agents, if it shall elect so to do, to sell and dispose of, and if requested in writing by the holders of a majority of the bonds secured hereby and then outstanding, the Trustee shall sell and dispose of, all and singular the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, or from time to time, as it shall deem proper, of so much thereof as may be sold separately without material injury to the parties interested, and be sufficient to pay the amount due on such bonds, then outstanding, for principal and interest, according to the terms thereof, together with the costs and expenses of such sale, and of all right, title, interest, claim and demand whatsoever, benefit, equity of redemption and statutory right of redemption of the Railway Company, of, in and to the same, or so much thereof as may be sold, and every part thereof, at public auction, at such place in the City of New York, New York, or in the City of Denver, Colorado, as it may designate, and at such time and upon such terms as may be specified in the notice of sale, to be given, as hereinafter provided, for the highest and best price the same will bring in cash. Before making such sale, the Trustee shall give notice of the time and place, when and where, and of the terms upon which the same is to be made, which notice shall contain a description of the premises and property to be sold, and shall be published not less than once each week, for twelve weeks next preceding the time specified for such sale, in at least one newspaper published in the City of New York, New York, and in at least one newspaper published in the City of Denver, Colorado, with the right to adjourn such sale from time to time, in the discretion of the Trustee, by giving reasonable notice of such adjournment or adjournments, by advertisement appended to such notice of sale, and after so adjourning, to make such sale at the time and place to which the same may have been adjourned; and upon such sale being made, and upon receiving full payment therefor, to make execute and deliver to the pur-

chaser or purchasers at such sale, good and sufficient deed or deeds of conveyance for the property and franchises so sold; which sale, made as aforesaid, shall be a perpetual bar, both in law and equity, against the Railway Company, and all other persons lawfully claiming or to claim the above described railway property and premises, rights interests and franchises so sold, or any part thereof, or any lien upon or interest therein, by, through or under the Railway Company; and after deducting from the proceeds of such sale a just allowance for all the expenses thereof, including reasonable attorney and counsel fees, and all other expenses, advances or liabilities, which may have been made or incurred by the Trustee, in operating said railway, or in maintaining the same, or in managing its business, while in possession thereof, and all payments which may have been made by it for taxes, or assessments, or other proper charges upon the said railway property and premises, rights, interests and franchises, or any part thereof, including its own reasonable compensation for its services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be, at the time, outstanding and unpaid, whether the same shall or shall not have previously become due, and of the interest which shall have accrued, at that time, on the said principal and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principal and such accrued and unpaid interest; and if, after satisfaction thereof, as aforesaid, a surplus shall remain, shall pay the same over to the Railway Company, its successors or assigns.

And it is further agreed that no part of the premises hereby mortgaged or intended so to be, shall be sold under proceedings at law by the holder or holders of all or any of the bonds intended to be hereby secured, it being the intention and agreement of the parties for the better securing the largest possible price for the mortgaged premises, in the event of a sale thereof, that the same shall only be sold in the manner herein provided, or under proper proceedings in a Court of Equity for the foreclosure of this mortgage or deed of trust.

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Mortgage
C. M. Ry. Co.

Sale to be only as
herein provided or
under proceedings
of a Court of Equity

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Mortgage
C. M. Ry. Co.

On default continued
for six months,
Trustee may apply
for appointment of
receiver and have the
right to nominate
such receiver, and
shall so apply on
written request
of majority of
outstanding bonds.

ARTICLE VII.

In case default shall be made by the Railway Company in the payment of the principal of, or of any interest upon, any of said bonds, as aforesaid, and such default shall continue for the period six months after demand in writing made for payment, as aforesaid, the Trustee, if it shall elect so to do, may, and if requested in writing by the holders of a majority of the bonds secured hereby and then outstanding (and upon being properly indemnified), shall apply to some Court, having proper jurisdiction in the premises, for foreclosure and sale of the mortgaged premises, property, rights, interests and franchises, and the appointment in the meantime of a Receiver for the same under this indenture, or (as an alternative of entry in that behalf, hereinbefore given) for the appointment of a Receiver, without applying for a foreclosure or sale of the mortgaged premises; and, in either case, the Trustee shall have the right to nominate to the Court the person to be appointed Receiver.

ARTICLE VIII.

Provisions for
Trustee's bidding at
foreclosure sale.

It is hereby further agreed that at any public sale of the railway property, premises, rights, interests and franchises hereby conveyed, made by virtue of the powers herein granted, or by judicial authority, for the purpose of enforcing the lien of this indenture, the Trustee or Trustees thereunder for the time being may bid for and, if the same be attainable at the prices hereinafter mentioned, purchase and acquire the property, so offered for sale, on behalf of the holders of the bonds secured by this indenture, which shall then be outstanding, in proportion to the amount of said bonds and of the overdue coupons thereunto belonging, by them respectively held; *Provided*, however, that nothing herein contained shall authorize said Trustee or Trustees to bid, on behalf of the holders of said bonds and coupons, a sum exceeding the whole amount of said bonds then outstanding, with the interest accrued thereon, according to the tenor thereof, and the amount due the holders of

the first mortgage bonds hereinbefore mentioned, and the cost and expenses of such sale, for the entire property then held upon the trusts of this indenture, or in amount reasonably proportioned thereto, for any part of the said property. And it is further agreed that the bonds secured hereby outstanding and unpaid, and the overdue coupons thereon, shall be received in payment of so much of the purchase price of any property sold by virtue hereof, as would be properly distributable to and payable thereon.

Consolidated
Mortgage
C. M. Ry. Co.

ARTICLE IX.

In case default shall be made by the Railway Company in the payment of any interest accruing upon any of the said bonds secured hereby, according to the tenor and effect of such bonds and of the coupons thereto annexed, and such default shall continue for the period of six months after demand in writing made for payment, as aforesaid, then, and in such case of default, continued as aforesaid, the principal of all the bonds secured hereby, shall, in case a majority in amount of the holders of said bonds, then outstanding, in writing and under seal, so elect, be and become immediately due and payable, anything herein or in said bonds contained to the contrary notwithstanding. A majority of the holders of said bonds outstanding may in writing under their hands and seals declare, or instruct the Trustee to declare, the said principal to be due, as aforesaid, or waive, or instruct the Trustee to waive, the right so to declare the principal due by reason of such default or defaults, upon such terms and conditions as such majority in amount of the holders of said bonds outstanding shall deem proper; *Provided*, That no such action of said bondholders, or of the Trustee, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

On default continued
for six months,
Trustee may declare
principal due, subject
to control by majority
of outstanding bonds.

ARTICLE X.

The Railway Company hereby covenants and agrees, to and with the said Trustee, on behalf and for the benefit of the holders of the bonds secured hereby, that it will, from

Covenant of
further assurance.

**Consolidated
Mortgage
C. M. Ry. Co.**

**Ry. Co. shall when
requested by Trustee
furnish inventory of
personal property.**

time to time and at all times, upon reasonable request, make, execute, acknowledge and deliver at its own expense, all such further acts, deeds, conveyances and assurances in law for the better assuring unto the Trustee and its successor or successors in the trust hereby created, upon the trusts and for the purposes herein expressed or intended, all and singular the property, premises, railway equipment and appurtenances, rights, interests and franchises hereby mortgaged or conveyed in trust, or intended or purported so to be, whether now owned or possessed by or vested in the Railway Company, or that may be subsequently acquired or vested in it, as by the Trustee or its counsel learned in the law, shall be reasonably devised, advised or required; and the Railway Company shall furnish to the Trustee, from time to time and at all times, upon its reasonable request in writing, a full and true inventory of all the movable property appertaining to said line of railway, hereinbefore described and hereby conveyed, and to the operation thereof, and which is transferred or intended to be transferred by this indenture; but no failure to demand or furnish such inventory shall impair or affect the operation of this indenture, upon any property herein agreed or intended to be transferred.

ARTICLE XI.

**Provision for
voluntary surrender
of possession by
Ry. Co. to Trustee
without default.**

The Railway Company may, at any time hereafter, before the full payment of said bonds, and whenever it shall deem it expedient for the better security of said bonds, although such default may not have occurred as to entitle the Trustee to enter into possession of the whole or any part of the said railway property, surrender and deliver into the possession of the Trustee the whole or any part of the said railway property and premises, rolling stock, lands and appurtenances, rights, interests and franchises, hereby conveyed or intended so to be, for any term or terms certain or indefinite. The Trustee upon such surrender and delivery, may, at its option, enter into and upon the premises so surrendered and delivered, and take

and receive possession thereof for such term or terms, certain or indefinite, as aforesaid, without prejudicing, however, its right, at any subsequent time, to insist upon and maintain such possession, though beyond such term, whenever it would have been entitled thereto by the terms of this indenture, had no surrender been made; and upon the voluntary surrender and delivery of the said railway property and premises or any part thereof, as aforesaid, the Trustee shall and will, during the term or terms for which possession shall be taken, and while said property and premises shall remain in its possession, receive the income and revenues thereof, and work, use, manage and employ the same in such lawful way as may be most beneficial, as well to the interests of the public as of the holders of said bonds, in accordance with the provisions of this indenture.

Consolidated
Mortgage
C. M. Ry. Co.

ARTICLE XII.

The Trustee shall have full power in its discretion, upon written request of the Railway Company, at any time when it shall not be in default in respect to any of the covenants of this indenture, to release from the lien of this mortgage or deed of trust, any portion or portions of the premises acquired, held or used by the Railway Company for the purposes of stations, shops or other buildings, or for uses connected with the maintenance or operation of its railways, or any part thereof, or for any purpose whatsoever, which in the judgment of the Trustee shall, at the time of such release, be no longer requisite for the purposes for which the same shall have been acquired or used by the Railway Company, nor necessary to be retained for use in connection with its said railways and the operation thereof, and likewise any part of the original line of track or roadway and depot grounds or buildings, or other appurtenances which may have been abandoned or thrown out of use and ceased to form a part of the railway at the time of such release, or which cannot be advantageously used or operated as a part thereof, by reason of changes of alignment, or of the construction of new lines or otherwise; *provided*

Provisions as to
release of portions of
mortgaged property
by Trustee on request
of Ry. Co.

Consolidated
Mortgage
C. M. Ry. Co.

Before such release
Ry. Co. shall furnish
Trustee with affidavit
of officers.

Duty of Trustee
to execute such
release on request of
majority of bonds
or of committee of
bondholders.

Power of Ry. Co. to
change location of
branch or spur tracks.

always, that any lands or other property which the Railway Company shall have acquired in exchange therefor, shall be conveyed by proper instruments of conveyance to the Trustee, upon the trust and for the purposes of this indenture; also, to release, in its discretion, from the lien of this mortgage or deed of trust, any unused franchise or franchises to construct lines of railway or telegraph, which, in the judgment of the Trustee, is or are of no value as security to the holders of said bonds; before the making of any such release, however, the Railway Company shall furnish the Trustee with the affidavit of its President or Vice President and Chief Engineer, stating that the lands or other property, which it is desired should be released, are no longer needed for the purposes of the Railway Company, and setting forth the reasons for such statement, which affidavits shall be conclusive evidence to the Trustee of the truth of the statements therein contained; and it shall be the duty of the Trustee to make, execute and deliver such releases from time to time, whenever thereunto requested by the holders of a majority in amount of the bonds secured hereby and outstanding at the time of the making of such request, or whenever so requested by a committee appointed at any meeting of the bondholders duly convened and held, as hereinafter provided, and such written request of the holders of a majority in amount of said bonds, or of such committee, appointed as aforesaid, shall be full authority and protection to the Trustee for the making of such release. The Railway Company shall also have the right and power, at any time, when not in default in respect to any of the covenants of this indenture, to change or alter the location of any of its branch or spur tracks included or intended to be included hereby, running to any mill, mine, manufacturing establishment or other industry, and of all side, loading or storage tracks connected therewith, as the necessities or convenience of its business may require; and whenever the Railway Company shall deem such tracks no longer necessary for the business or industry for which they were constructed, it shall have the right, power and privilege to

take up and altogether remove the same; *provided*, however, that the proceeds of the sale of any rails or other materials, thus taken up and removed by the Railway Company, shall be devoted and used by it for making improvements upon or additions to the property covered hereby.

Consolidated
Mortgage
C. M. Ry. Co.

ARTICLE XIII.

The Trustee shall receive reasonable compensation for the services rendered by it in the discharge of the duties hereby and hereunder imposed upon the Trustee.

Compensation
of Trustee.

ARTICLE XIV.

The term or words, "the Trustee," "said Trustee," and "the said Trustee," as used in this indenture, shall be held and stated to mean the Trustee or Trustees for the time being. And it is mutually agreed that the said Trustee, or any Trustee or Trustees hereafter appointed, may, upon not less than ten (10) days' previous notice in writing, to be duly served upon said Trustee or Trustees, be removed by a vote of a majority in interest of the holders of said bonds, cast at any meeting of said bondholders duly convened for such purpose; such notice of removal to be attested by the hands and seals of the chairman and secretary of such meeting; such meeting to be called by the President or Secretary of the Railway Company, upon the request of the holders of not less than twenty-five (25) per cent. of the amount of the bonds then outstanding, and written notice of the time and place of holding the same to be served upon or mailed to each bondholder, at his last known address, not less than thirty (30) days prior to the time of holding such meeting.

Word "trustee" to
include successors.

Provision for removal
of Trustee.

ARTICLE XV.

And said Trustee, or any Trustee or Trustees hereafter appointed, may resign and be discharged of the trust created by this indenture by giving notice in writing to the Railway Company and to the bondholders, by publica-

Provision for
resignation of
Trustee.

Consolidated
Mortgage
C. M. Ry. Co.

Provision for election
of new trustee by
bondholders in case
of vacancy.

Provisions in regard
to transfer of trust
to new trustee.

tion thereof, at least twice each week for four (4) successive weeks, in a newspaper published in the City of New York, New York, and in a newspaper published in the City of Denver, Colorado; such resignation not to take effect until at least thirty (30) days after the last publication of such notice, and only upon the due execution of the conveyance or conveyances hereinafter required; and in case of the dissolution of said Trustee, or of its resignation, incapacity to act or removal as Trustee hereunder, it shall be the duty of the Railway Company, or of its President or Secretary, to call a meeting of the holders of the bonds secured or intended to be secured hereby, by publishing a notice, at least twice each week for four (4) successive weeks, in a newspaper published in the City of New York, New York, and in a newspaper published in the City of Denver, Colorado, such meeting of the holders of said bonds to be held in the City of New York, not less than ten (10) days after the last publication of each or either of said notices, for the purpose of filling the place of said Trustee; and at such meeting a majority in interest of the holders of said bonds, shall be competent to elect a new Trustee, and shall, at such meeting, proceed to elect a suitable person or persons, or corporation, to act as Trustee or Trustees, to fill such vacancy; and the person or persons, or corporation, so selected, shall immediately upon such election, and upon his, their or its filing with the Railway Company an acceptance in writing of such trust, become vested with all the estate, trust, rights, powers and duties of the said Trustee, party of the second part, as prescribed herein; and thereupon all the powers hereunder, and all the estate, right, title and interest in said premises, of the Trustee who shall have become incapable, or have resigned, or have been removed, shall wholly cease and determine; but nevertheless, the Trustee or Trustees resigning, or being removed, as aforesaid, shall, upon the request in writing of the new Trustee or Trustees, execute and deliver to it, him or them, all such conveyances and other instruments as shall be fit and expedient, for the purpose of assuring to such new Trustee or Trustees

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

Consolidated
Mortgage
C. M. Ry. Co.
Affidavit of Secretary
of Ry. Co. as to
corporate seal and
authority to affix
same.

On this first (1st) day of February, 1890, before me, John DeWitt Peltz, a Notary Public within and for the said County and State, personally appeared E. W. Sells, to me personally known and known to me to be the Secretary of said The Colorado Midland Railway Company, and who, being by me duly sworn, did depose and say: That the seal affixed to the foregoing instrument is the corporate seal of the said The Colorado Midland Railway Company; and that said seal was affixed thereto and attested by him as Secretary of said Company by order of the Board of Directors of said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year above mentioned.

JOHN DEWITT PELTZ,

[SEAL]

Notary Public

for El Paso County, Colorado.

My commission expires March 16, 1892.

STATE OF NEW YORK, }
COUNTY AND CITY OF NEW YORK, } ss.

Acknowledgment by
Trust Co.

On this 6th day of February, A.D. 1890, before me, Edwin F. Corey, a Commissioner of Deeds for the State of Colorado, within and for the State of New York, residing in the City of New York, in the County and State of New York, personally appeared Frederick P. Olcott and Charles H. P. Babcock, each to me personally known, and known to me to be the President and Secretary, respectively, of the said Central Trust Company of New York, and each acknowledged that he executed the foregoing instrument as such President and Secretary, respectively, of said Central Trust Company, and affixed the corporate seal thereto, by order of the Board of Directors of said Company, as the free and voluntary act of the said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

Consolidated
Mortgage
C. M. Ry. Co.

wilful default in the discharge of its duties as such Trustee. The Trustee shall not be individually liable for any debts contracted or any liabilities incurred by it, nor for any damage to persons or property carried or injured, nor for salaries or non-fulfilments of contracts during any period in which the Trustee shall manage the trust property, upon entry or voluntary surrender as aforesaid, but all such debts and liabilities shall be and constitute a first charge upon the trust funds and property.

ARTICLE XVII.

Whole issue of
bonds to be executed
by Ry. Co. and
delivered to Trustee.

It is further agreed that the whole issue of said bonds, to be secured hereby, shall immediately upon the execution of the same by the Railway Company, as aforesaid, be delivered to the Trustee for certification, from time to time, pursuant to the provisions hereof.

ARTICLE XVIII.

Where action by
bondholders is called
for, proof of
ownership may be
required.

And it is hereby declared and provided that, whenever, under any of the provisions of this indenture, effect is to be given to the election, act, appointment or assent of a majority, or of any specified amount or proportion, of the bondholders secured hereby, any person whose interests are to be affected by such action, may require that the ownership of such bonds, by the persons claiming to be the owners thereof, shall be vouched for by the affidavit of such owner, or of his duly authorized agent or attorney having possession of the bonds, stating such ownership of the bonds and giving the numbers thereof, which affidavit shall be received as *prima facie* evidence of the fact, but subject to question of its verity and demand for production of the bonds in any controversy or legal proceeding.

ARTICLE XIX.

Defeasance clause.

If the Railway Company shall well and truly pay, or cause to be paid, all the bonds to be issued hereunder, or entitled to the protection of this indenture, and the coupons thereto attached, at the times and in the manner

CONTRACT OF SALE AND TRUST

OF DEC. 28, 1887

SECURING THE EQUIPMENT BONDS

OF

THE COLORADO MIDLAND RAILWAY
COMPANY.

THIS AGREEMENT, made and entered into this Dec. 28, 1887.
twenty-eighth day of December, 1887, by and between
B. AYMAR SANDS and CHARLES H. WOODRUFF, of the City, Parties.
County and State of New York, as Trustees for those per-
sons who may become the owners of the bonds hereinafter
mentioned, parties of the first part, and The Colorado Mid-
land Railway Company, a corporation organized and existing
under the laws of the State of Colorado, party of the second
part, *WITNESSETH:*

THAT WHEREAS, for the purpose of providing and paying
for necessary rolling stock equipments for its railway, the
party of the second part, pursuant to the provisions of the
certificate of incorporation, and of the laws of the State of
Colorado, and by virtue of the rights, privileges, powers and
authority therein and thereby conferred, and also in pursu-
ance of resolutions adopted by its Board of Directors and
duly recorded in its minutes, did authorize and direct the
execution, issuance and delivery of its bonds for the aggre-
gate amount of five hundred thousand dollars (\$500,000),
said bonds to be for the sum of one thousand dollars (\$1,000)
each, to be signed by the President and Secretary, and
attested by its Corporate Seal, to mature ten (10) years from
the first day of March, 1888, to bear interest at the rate of
seven per cent. (7 per cent.) per annum, payable in semi-
annual coupons on the first days of March and September
of each year, commencing on the first day of September,
1888, to be payable, principal and interest, in the City of
New York, in gold coin of the United States, of or equal to

Authorization of
issuing of \$500,000
of Equipment Bonds.

Consolidated
Mortgage
C. M. Ry. Co.

of New York, the party of the second part, in evidence of its acceptance of the trust hereby created, has likewise caused these presents to be executed on its behalf by its President, and its corporate seal, attested by its Secretary, to be hereunto affixed.

THE COLORADO MIDLAND RAILWAY COMPANY.
By HENRY T. ROGERS,
[CORPORATE SEAL] *Vice-President.*

Attest:
E. W. SELLS,
Secretary.

THE CENTRAL TRUST COMPANY OF NEW YORK.
By F. P. OLCOTT,
[CORPORATE SEAL] *President.*

Attest:
C. H. P. BABCOCK,
Secretary.

Acknowledgment by
Ry. Co.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this 31st day of January, 1890, before me, L. B. Johnson, a Notary Public, within and for said County in said State, personally appeared Henry T. Rogers, to me personally known, and known to me to be the same person who executed the foregoing instrument, and who is also known to me to be the Vice-President of said The Colorado Midland Railway Company, and acknowledged that he executed said instrument by order of the Board of Directors of said Company as its free and voluntary act and deed, and as his own free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above mentioned.

[SEAL] L. B. JOHNSON,
Notary Public.
My commission expires December 24, 1892.

trust, dated December twenty-eighth, 1887, between said B. Aymar Sands and Charles H. Woodruff, as trustees, and said Railway Company; and on the first day of March, 1898, the balance of said bonds, then remaining unpaid, shall be redeemed and paid by said Railway Company, at one hundred and five (105) per centum of the par value thereof; the said premium of five (5) per centum being the consideration for the privilege of determining by lot, as aforesaid, which of said bonds shall be so redeemed and paid before maturity.

Contract of Sale and
Trust securing
Equipment bonds of
C. M. Ry. Co.

All interest coupons hereto attached, maturing after the date which shall have been fixed, as above provided, for the redemption and payment of this bond shall be void, and must be surrendered for cancellation when the bond is presented for redemption and payment; and, until all of said coupons are so surrendered, said Railway Company shall not be bound to redeem or pay this bond, and shall not be liable for any interest thereon in the meantime. The proceeds of said bonds are to be used for the payment of not more than ninety per cent. of the purchase price of the cars, locomotives and other rolling stock equipment which may be purchased by said B. Aymar Sands and Charles H. Woodruff, under said contract of sale and trust, and the holders of said bonds shall have all the security afforded by said contract of sale and trust.

This bond shall pass by delivery, but shall not become obligatory upon the said Railway Company until it shall have been authenticated by a certificate endorsed hereon, signed by said Trustees, to the effect that it is one of the bonds covered by said contract of sale and trust.

IN WITNESS WHEREOF, THE COLORADO MIDLAND RAILWAY COMPANY has caused this bond to be subscribed by its President, and its Corporate Seal, attested by its Secretary, to be affixed hereto, this first day of March, in the year of our Lord one thousand eight hundred and eighty-eight.

THE COLORADO MIDLAND RAILWAY COMPANY.

By

President.

Attest:

[SEAL]

Secretary.

The C. M. Ry. Co.

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**Consolidated
Mortgage
C. M. Ry. Co.**

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal the day and year above mentioned.

[SEAL] **EDWIN F. COREY,**
*Commissioner for the State of Colorado,
Office 52 Wall Street. New York.*

**Recording of
foregoing Mortgage.**

THE FOREGOING MORTGAGE was recorded as follows:

COUNTY	DATE	BOOK	PAGE
El Paso	Feb. 12, 1890	75	40
Park	Feb. 13, 1890	41	248
Chaffee	Feb. 12, 1890	52	393
Lake	Feb. 14, 1890	137	165
Pitkin	Feb. 13, 1890	80	1
Eagle	Feb. 12, 1890	32	490
Garfield	Feb. 12, 1890	23	202

Company shall pay the remaining ten (10) per centum of such purchase price upon or before the delivery of any cars, locomotives or other equipment into the qualified possession of the Railway Company by the Trustees, as aforesaid.

Contract of Sale and Trust securing Equipment bonds of C. M. Ry. Co.

THIRD.—It is hereby further agreed, by and between the parties hereto, that the title to the cars, locomotives and other railroad equipment which shall be purchased by the Trustees, as aforesaid, shall be taken in their name, and vest in them, as Trustees for the benefit and security of the party or parties who shall become the owner and holder of any of said bonds; and the Trustees agree that so soon as they shall have purchased and received possession of any cars, locomotives or other railroad equipment, as aforesaid, they will thereupon deliver the same into the qualified possession of the Railway Company, upon the following terms and conditions, to wit:

Title to rolling stock to be in Trustees, who agree to deliver same into qualified possession of Ry. Co.

(a.) To secure the redemption and payment of said bonds, and the full and faithful performance of the terms of this agreement, on the part of the Railway Company, no right, title or interest in and to said cars, locomotives or other railroad equipment, to be purchased as aforesaid, except the qualified possession and use thereof, shall pass from the Trustees, or vest in the Railway Company, until the bonds, or that portion thereof which shall have been negotiated by the Trustees, shall have been fully redeemed and paid, and the terms and conditions of this agreement shall have been otherwise fully complied with.

Title not to vest in Ry. Co. until all the bonds are redeemed and paid.

(b.) The Railway Company shall have the qualified possession and use of said cars, locomotives and other railroad equipment, so long as it shall redeem and pay said bonds and interest thereon when due, as herein provided, and shall live up to and abide by this contract; upon the full redemption and payment by the Railway Company of said bonds, or so many thereof as shall have been negotiated, together with the interest thereon, and upon the full performance and completion of this agreement, but not before, the title to said cars, locomotives and other railroad equipment which shall have been purchased under this agreement, and the absolute property and possession thereof, shall pass to and vest in the Railway Company, its successors and assigns.

Ry. Co. to have qualified possession so long as it makes no default, and on full performance title to vest in it.

(c.) If the Railway Company shall fail to redeem or pay

Provisions in case of default.

Contract of Sale and
Trust securing
Equipment bonds of
C. M. Ry. Co.

the present standard, to be retired at the par value thereof in instalments of ten per cent. (10 per cent.) per annum, as the same may be drawn by lot, commencing on the first day of March, 1891, the balance to be retired when due; and to be otherwise conditioned as the Finance Committee might determine; and

Form of bonds.

WHEREAS, In pursuance of the authority to it granted by virtue of said Resolutions, the Finance Committee of the Railway Company has determined that said bonds shall be of the following tenor, and in the following form:

UNITED STATES OF AMERICA,

STATE OF COLORADO.

THE COLORADO MIDLAND RAILWAY
COMPANY,

No.	EQUIPMENT BOND,	\$1,000.
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FOR VALUE RECEIVED, THE COLORADO MIDLAND RAILWAY COMPANY, a corporation organized and existing under the Laws of the State of Colorado, promises to pay B. Aymar Sands and Charles H. Woodruff, or bearer, or, in case this bond be registered, then the registered owner thereof, at the fiscal agency of said Company in the City of New York, the sum of one thousand dollars (\$1,000) in gold coin of the United States, of or equal to the present standard, on or before the first day of March, 1898, as hereinafter provided, and interest thereon at the rate of seven per centum (7 per cent.) per annum, payable in like gold coin at said agency, semi-annually on the first day of March and the first day of September in each year, commencing on the first day of September, 1888, to the date of the redemption of this bond, fixed as hereinafter provided, on the presentation and surrender of the several interest coupons hereunto attached. This bond is one of a series of Equipment Bonds, each of the same tenor, amount and date, and numbered consecutively from one (1) to five hundred (500) inclusive.

On the first day of March in each year for seven (7) consecutive years, commencing with the year 1891, ten per centum of the number and amount of said bonds to be drawn by lot in the manner provided in the contract of sale and

shall be commenced within ten (10) days next after said drawing, and the bonds so drawn shall be redeemed and paid by the Railway Company, as in said bonds provided, on the first day of March succeeding the date of such drawings, and after said first day of March next succeeding such drawing the bonds so drawn shall cease to bear interest unless default in the redemption and payment thereof shall be made by the Railway Company.

FIFTH.—It is hereby further agreed, by and between the parties hereto, that the said Trustees shall insure, and keep insured in some solvent insurance companies, by suitable policy or policies of insurance, at the expense of the said Railway Company, which expense the Railway Company agrees to pay, all the cars, locomotives, and other railroad equipment purchased under this agreement, in such sum as the Trustees may determine. Such policy or policies of insurance shall be taken in the names of said parties of the first part, as Trustees, for the holders of said bonds and for their benefit, and in the name of the Railway Company for its benefit, insuring the interests of each. In case of loss by fire, or other casualty insured against under said policy or policies, the property so destroyed or injured shall be replaced by the Trustees, and the proceeds derived from said policy or policies may be received and shall be applied, by the Trustees, towards the replacement of any cars, locomotives or other railroad equipment lost or destroyed. If the amount derived from said policy or policies, shall be insufficient to replace the cars, locomotives or other railroad equipment so lost or destroyed, the Railway Company shall immediately, upon demand being made therefor by the Trustees, pay over to them a sum of money equal to such insufficiency, which shall be applied towards the payment of the expense of such replacement. All cars, locomotives and other railroad equipment so replaced, shall remain the property of the Trustees until said bonds and interest are fully paid, and the terms of this agreement are otherwise fully complied with, to the same effect as is provided by this agreement, relative to the same as originally furnished.

SIXTH.—It is hereby further agreed, by and between the parties hereto, that the Railway Company shall keep all said cars, locomotives and other railroad equipment in good

Contract of Sale and
Trust securing
Equipment bonds of
C. M. Ry. Co.

Ry. Co. to keep rolling
stock insured in the
name of the Trustees.

Provision for
replacing property
in case of loss by
risk insured against.

Ry. Co. to keep
rolling stock in good
condition.

Contract of Sale and
Trust securing
Equipment bonds of
C. M. Ry. Co.

\$35.

[FORM OF INTEREST COUPON.]

No.

THE COLORADO MIDLAND RAILWAY COMPANY will pay the bearer, at its fiscal agency in the City of New York, thirty-five dollars (\$35) in gold coin of the United States of America, on the first day of _____, 188____, being six months' interest then due on its Equipment Bond No. _____
Treasurer.

[FORM OF TRUSTEES' CERTIFICATE ENDORSED ON EACH BOND.]

We, B. Aymar Sands and Charles H. Woodruff, of the City of New York, do hereby certify that the within bond is one of the Equipment Bonds of the series covered by the contract of sale and trust, dated December 28th, 1887, between ourselves, as Trustees, and the COLORADO MIDLAND RAILWAY COMPANY.

Agreement.

NOW, THEREFORE, in consideration of the premises and of the agreements and promises herein contained, it is hereby agreed, between the parties hereto, to wit:

B. Aymar Sands and
Charles H. Woodruff
agree to act as
trustees and as such
to receive bonds and
negotiate same from
time to time on
request of Ry. Co.
and apply proceeds
towards payment for
rolling stock.

FIRST.—The said B. Aymar Sands and Charles H. Woodruff agree to become and act as Trustees under this agreement, for the benefit of the party or parties who shall hereafter become the owners and holders of any of said bonds, and as such will receive said bonds, and shall, from time to time, upon the written request and under the direction of the President of the Railway Company, and not otherwise, negotiate and convert the same into money, and under like direction shall apply the proceeds of said bonds towards the payment of the cars, locomotives and other railroad equipment, to be purchased by the Trustees, under the direction of the President of the Railway Company, and not otherwise, for the use of the Railway Company.

Not more than 90 per
cent. of purchase
money to be so paid.
Remaining 10 per cent.
to be paid by Ry. Co.

SECOND.—It is hereby further agreed, by and between the parties hereto, that to more fully secure the purchasers and holders of said bonds, the proceeds thereof shall be applied towards the payment of not more than ninety (90) per centum of the purchase price of any cars, locomotives, or other railroad equipment, which shall be purchased by the Trustees under this agreement; and that the Railway

Company shall pay the remaining ten (10) per centum of such purchase price upon or before the delivery of any cars, locomotives or other equipment into the qualified possession of the Railway Company by the Trustees, as aforesaid.

Contract of Sale and Trust securing Equipment bonds of C. M. Ry. Co.

THIRD.—It is hereby further agreed, by and between the parties hereto, that the title to the cars, locomotives and other railroad equipment which shall be purchased by the Trustees, as aforesaid, shall be taken in their name, and vest in them, as Trustees for the benefit and security of the party or parties who shall become the owner and holder of any of said bonds; and the Trustees agree that so soon as they shall have purchased and received possession of any cars, locomotives or other railroad equipment, as aforesaid, they will thereupon deliver the same into the qualified possession of the Railway Company, upon the following terms and conditions, to wit:

Title to rolling stock to be in Trustees, who agree to deliver same into qualified possession of Ry. Co.

(a.) To secure the redemption and payment of said bonds, and the full and faithful performance of the terms of this agreement, on the part of the Railway Company, no right, title or interest in and to said cars, locomotives or other railroad equipment, to be purchased as aforesaid, except the qualified possession and use thereof, shall pass from the Trustees, or vest in the Railway Company, until the bonds, or that portion thereof which shall have been negotiated by the Trustees, shall have been fully redeemed and paid, and the terms and conditions of this agreement shall have been otherwise fully complied with.

Title not to vest in Ry. Co. until all the bonds are redeemed and paid.

(b.) The Railway Company shall have the qualified possession and use of said cars, locomotives and other railroad equipment, so long as it shall redeem and pay said bonds and interest thereon when due, as herein provided, and shall live up to and abide by this contract; upon the full redemption and payment by the Railway Company of said bonds, or so many thereof as shall have been negotiated, together with the interest thereon, and upon the full performance and completion of this agreement, but not before, the title to said cars, locomotives and other railroad equipment which shall have been purchased under this agreement, and the absolute property and possession thereof, shall pass to and vest in the Railway Company, its successors and assigns.

Ry. Co. to have qualified possession so long as it makes no default, and on full performance title to vest in it.

(c.) If the Railway Company shall fail to redeem or pay

Provisions in case of default.

Contract of Sale and
Trust securing
Equipment bonds of
C. M. Ry. Co.

any of said bonds, and interest thereon, as said bonds and interest shall become due as herein provided, and shall fail to make such payment within twenty days thereafter, or shall cause or suffer any of said cars, locomotives or other railroad equipment to be taken out of its possession, by legal process or otherwise, then the Trustees may, without demand, and without legal process, resume the possession of all such cars, locomotives and other railroad equipment, wherever found, as they may deem necessary, and transport the same to some convenient place, by them designated, at the expense of the Railway Company, and the Trustees may thereafter sell the same at public or private sale, after giving ten days' notice to said Railway Company, and out of the proceeds of such sale pay the expenses of said sale, and other expenses incurred under this agreement, or incurred by reason of any failure of the Railway Company to carry out and perform this agreement, and apply the overplus toward the redemption and payment of said bonds and interest then outstanding and unpaid, the Trustees having, in the event of a default of the Railway Company as herein stated, the same privileges as to the redemption of said bonds as the Railway Company has under this agreement. If the proceeds of such sale shall be insufficient to pay the expenses aforesaid and the amount then due upon said bonds and interest then outstanding and unpaid, the Railway Company shall remain liable for any balance unpaid; should there remain a surplus arising from such sale after paying the said expenses and the said bonds and interest, the same shall be paid over to the Railway Company.

Ten per cent. of bonds
to be drawn for
redemption in each
of seven consecutive
years beginning
with 1891

FOURTH.—To determine which of said bonds shall be redeemed and paid on the first day of March in each year, for seven consecutive years, commencing with the year 1891, as in said bonds provided, the Trustees shall draw by lot on some day between the fifteenth and thirtieth days inclusive of January in each year, for seven consecutive years, commencing with the year 1891, ten per cent. (10%) of the number and amount of said bonds, of which drawing, and the numbers that have been so drawn, notice shall be given by said Trustees by publication in some newspaper published in the City of New York, New York, for at least ten (10) consecutive days, not including Sundays, which publication

shall be commenced within ten (10) days next after said drawing, and the bonds so drawn shall be redeemed and paid by the Railway Company, as in said bonds provided, on the first day of March succeeding the date of such drawings, and after said first day of March next succeeding such drawing the bonds so drawn shall cease to bear interest unless default in the redemption and payment thereof shall be made by the Railway Company.

FIFTH.—It is hereby further agreed, by and between the parties hereto, that the said Trustees shall insure, and keep insured in some solvent insurance companies, by suitable policy or policies of insurance, at the expense of the said Railway Company, which expense the Railway Company agrees to pay, all the cars, locomotives, and other railroad equipment purchased under this agreement, in such sum as the Trustees may determine. Such policy or policies of insurance shall be taken in the names of said parties of the first part, as Trustees, for the holders of said bonds and for their benefit, and in the name of the Railway Company for its benefit, insuring the interests of each. In case of loss by fire, or other casualty insured against under said policy or policies, the property so destroyed or injured shall be replaced by the Trustees, and the proceeds derived from said policy or policies may be received and shall be applied, by the Trustees, towards the replacement of any cars, locomotives or other railroad equipment lost or destroyed. If the amount derived from said policy or policies, shall be insufficient to replace the cars, locomotives or other railroad equipment so lost or destroyed, the Railway Company shall immediately, upon demand being made therefor by the Trustees, pay over to them a sum of money equal to such insufficiency, which shall be applied towards the payment of the expense of such replacement. All cars, locomotives and other railroad equipment so replaced, shall remain the property of the Trustees until said bonds and interest are fully paid, and the terms of this agreement are otherwise fully complied with, to the same effect as is provided by this agreement, relative to the same as originally furnished.

SIXTH.—It is hereby further agreed, by and between the parties hereto, that the Railway Company shall keep all said cars, locomotives and other railroad equipment in good

Contract of Sale and
Trust securing
Equipment bonds of
C. M. Ry. Co.

Ry. Co. to keep rolling
stock insured in the
name of the Trustees.

Provision for
replacing property
in case of loss by
risk insured against.

Ry. Co. to keep
rolling stock in good
condition.

Contract of Sale and
Trust securing
Equipment bonds of
C. M. Ry. Co.

order and repair, and if any one or more of the same shall be injured or destroyed, either on the road of the Railway Company or any other road, the Railway Company shall forthwith repair or replace such cars, locomotives or other railroad equipment so injured or destroyed.

Provision for annual
inspection of rolling
stock by agent
of Trustees.

SEVENTH.—It is hereby further agreed, by and between the parties to this agreement, that the Trustees may annually, and until said bonds and interest are fully paid, and the terms of this agreement are otherwise fully complied with, appoint a competent person to inspect the cars, locomotives and other railroad equipment, and report in writing to them the condition of the same, and that the Railway Company shall pay all the expenses incident to such inspection. If the person so appointed to make such inspection shall report that the said cars, locomotives and other railroad equipment are not in good condition and that the same are in need of repairs, the Railway Company shall be furnished with a copy of such report, and shall immediately thereafter cause such repairs to be made thereto as shall be specified in said report. If the Railway Company shall fail and neglect to make such repairs within a reasonable time therefor, the Trustees may retake and resume the possession of all said cars, locomotives and other railroad equipment, sell the same and apply the proceeds of such sale in the manner hereinbefore provided for the sale of such equipment and the application of the proceeds thereof, in case of default being made in the redemption and payment of said bonds.

Receipts to be given
by Ry. Co. to Trustees
as rolling stock
is delivered.

EIGHTH.—It is hereby further agreed, by and between the parties hereto, that upon the delivery by the Trustees of any cars, locomotives or other railroad equipment to the Railway Company under this agreement, the Railway Company shall give its receipt therefor to the Trustees, which receipt shall state that the cars, locomotives or other railroad equipment so delivered to the Railway Company are received into its possession in pursuance of, and under the terms and conditions of this agreement.

Rolling stock not to
become fixtures
during existence
of trust.

NINTH.—It is hereby further agreed, by and between the parties hereto, that the cars, locomotives and other railroad equipment which shall be delivered into the possession of the Railway Company under and in pursuance of the terms

of this agreement, shall in no way or manner, or under any circumstances, become fixtures during the existence of this agreement, or while the same remains unperformed.

Contract of Sale and
Trust securing
Equipment bonds of
C. M. Ry. Co.

TENTH.—It is hereby further agreed, by and between the parties hereto, that all the cars, locomotives and other railroad equipment purchased under this agreement, shall be designated by marking thereon, or affixing thereto, on an iron or other plate, these words: "Property of SANDS & WOODRUFF, Trustees."

Rolling stock how
to be marked.

ELEVENTH.—The Railway Company hereby agrees and promises to pay to the Trustees a reasonable compensation for their services as such Trustees under this agreement.

Compensation of
Trustees.

IN TESTIMONY WHEREOF, the said B. AYMAR SANDS and CHARLES H. WOODRUFF, the parties of the first part, have hereunto set their hands and seals, and the said THE COLORADO MIDLAND RAILWAY COMPANY, the party of the second part, has caused this agreement to be subscribed officially by its President and attested by its Secretary, and its corporate seal to be hereunto affixed, the day and year above written.

Attesting clause.

[SEAL]

B. AYMAR SANDS.

[SEAL]

CHAS. H. WOODRUFF.

THE COLORADO MIDLAND RAILWAY COMPANY.

By

JAMES J. HAGERMAN.

[SEAL]

President.

Attest:

CHARLES A. LANSING,

Secretary.

STATE OF COLORADO, }
COUNTY OF EL PASO, }

Acknowledgment
of Ry. Co.

Before me, a Notary Public in and for said County, in said State, on this 28th day of January, 1888, personally appeared JAMES J. HAGERMAN and CHARLES A. LANSING, personally known to me and known to me to be the same persons who executed the foregoing instrument of writing, and known also to me to be respectively President and Secretary of the said THE COLORADO MIDLAND RAILWAY COMPANY, and acknowledged each for himself, that he executed

Contract of Sale and
Trust securing
Equipment bonds of
C. M. Ry. Co.

the foregoing instrument in writing by order of the Board of Directors of said Company as the free and voluntary act of the said Company, and as his own free and voluntary act for the uses and purposes therein stated.

Affidavit of Sec'y as
to corporate seal.

And the said CHARLES A. LANSING, being by me duly sworn on his oath, saith that the seal affixed to the foregoing instrument of writing is the corporate seal of the said THE COLORADO MIDLAND RAILWAY COMPANY.

Witness my hand and notarial seal this 28th day of January, 1888.

[SEAL]

A. J. WELCH,
Notary Public.

Acknowledgment of
Sands, Trustee.

STATE OF NEW YORK, } ss.:
COUNTY OF NEW YORK, }

B. AYMAR SANDS appeared before me this 20th day of January, 1888, in person, and acknowledged the foregoing instrument to be his act and deed for the uses specified therein.

Witness my hand and official seal,

[SEAL]

WILLIAM C. BOWERS,
Notary Public,
New York County.

Acknowledgment of
Woodruff, Trustee.

STATE OF NEW YORK, } ss.:
COUNTY OF NEW YORK, }

CHARLES H. WOODRUFF appeared before me this 20th day of January, 1888, in person, and acknowledged the foregoing instrument to be his act and deed for the uses specified therein.

Witness my hand and official seal,

[SEAL]

WILLIAM C. BOWERS,
Notary Public,
New York County.

Filing of foregoing
contract.

THE FOREGOING CONTRACT was filed in the following named Counties at the times named:

El Paso,	Sept. 12, 1892,		
Park,	Jan. 30, 1888, and numbered		22,064
Chaffee,	Jan. 30, 1888, " "		32,635
Lake,	Jan. 30, 1888, " "		69,589
Pitkin,	Sept. 2, 1892, " "		48,915
Eagle,	Jan. 30, 1888, " "		5,062
Garfield,	Feb. 1, 1888, " "		6,207.

CONTRACT OF SALE AND TRUST

OF JAN. 1, 1890

SECURING EQUIPMENT BONDS, SERIES B

OF

THE COLORADO MIDLAND RAILWAY
COMPANY.

THIS AGREEMENT, made and entered into this first day of January, A.D. 1890, by and between B. Aymar Jan. 1, 1890.
SANDS and CHARLES H. WOODRUFF, of the City, County Parties.
and State of New York, as Trustees for those persons who may become the owners of the bonds hereinafter mentioned, and hereafter designated as "the Trustees," parties of the first part, and THE COLORADO MIDLAND RAILWAY COMPANY, a corporation organized and existing under the laws of the State of Colorado, and hereafter designated as the "Railway Company," party of the second part, WITNESSETH:

THAT WHEREAS, For the purpose of providing and paying for additional rolling stock equipment for its railway, the Railway Company, pursuant to the provisions of its certificate of incorporation and of the laws of the State of Colorado, and by virtue of the rights, privileges, powers and authority therein and thereby conferred, and also in pursuance of resolutions heretofore adopted by its Board of Directors and duly recorded in its minutes, has authorized and directed the execution, issuance and delivery of its bonds, to be known as Equipment Bonds, Series B, for the aggregate amount of five hundred thousand dollars (\$500,000), said bonds to be of the denomination of one thousand dollars (\$1,000) each, to mature ten (10) years from the first day of January, 1890, to bear interest at the rate of six (6) per centum per annum, payable in semi-annual coupons on the first days of January and July of each year,

Authorization of
issuing of \$500,000 of
Equipment Bonds
Series B.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

commencing on the first day of July, 1890, to be payable, principal and interest, in the City of New York, in gold coin of the United States, of or equal to the present standard, to be redeemed and paid at one hundred and five (105) per centum of the par value thereof, in instalments of ten (10) per centum per annum of the whole number and amount thereof as the same may be drawn by lot, commencing such redemption on the first day of January, 1895, the remaining bonds not so drawn to be redeemed and paid at maturity, and to be otherwise conditioned as the Executive Committee may determine; and

Form of bonds.

WHEREAS, In pursuance of the authority to it granted, by virtue of such resolution, the Executive Committee has determined that said bonds shall be of the following tenor and in the following form:

UNITED STATES OF AMERICA,

STATE OF COLORADO.

THE COLORADO MIDLAND RAILWAY
COMPANY,

No.	EQUIPMENT BOND.	\$1,000.
	<i>Series B.</i>	

FOR VALUE RECEIVED, THE COLORADO MIDLAND RAILWAY COMPANY, a corporation organized and existing under the laws of the State of Colorado, promises to pay B. Aymar Sands and Charles H. Woodruff, or bearer, at the fiscal agency of said Company in the City of New York, the sum of one thousand dollars (\$1,000) in gold coin of the United States, of or equal to the present standard, on or before the first day of January, 1900, as hereinafter provided, and interest thereon at the rate of six per centum (6 per cent.) per annum, payable in like gold coin at said agency, semi-annually on the first day of January and the first day of July in each year, commencing on the first day of July, 1890, to the date of the redemption of this bond, fixed as hereinafter provided, on the presentation and surrender of the several interest coupons hereunto attached.

This bond is one of a series of Equipment Bonds, each of the same tenor, amount and date, and numbered consecutively from one (1) to five hundred (500) inclusive.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

On the first day of January in each year for five (5) consecutive years, commencing with the year 1895, 10 per centum of the number and amount of said bonds to be drawn by lot in the manner provided in the contract of sale and trust, dated January first, 1890, between said B. Aymar Sands and Charles H. Woodruff, as Trustees, and said Railway Company, and on the first day of January, 1900, the balance of said bonds then remaining unpaid shall be redeemed and paid by said Railway Company, at one hundred and five (105) per centum of the par value thereof; the said premium of five (5) per centum being the consideration for the privilege of determining by lot, as aforesaid, which of said bonds shall be so redeemed and paid before maturity.

All interest coupons hereto attached, maturing after the date which shall have been fixed, as above provided, for the redemption and payment of this bond shall be void, and must be surrendered for cancellation when the bond is presented for redemption and payment; and, until all of said coupons are so surrendered, said Railway Company shall not be bound to redeem or pay this bond, and shall not be liable for any interest thereon in the meantime. The proceeds of said bonds are to be used for the payment of not more than ninety per cent. of the purchase price of the cars, locomotives and other rolling stock equipment which may be purchased by said B. Aymar Sands and Charles H. Woodruff, under said contract of sale and trust, and the holders of said bonds shall have all the security afforded by said contract of sale and trust.

This bond shall pass by delivery, but shall not become obligatory upon the said Railway Company until it shall have been authenticated by a certificate endorsed hereon, signed by said Trustees, to the effect that it is one of the bonds covered by said contract of sale and trust.

IN WITNESS WHEREOF, THE COLORADO MIDLAND RAILWAY COMPANY has caused this bond to be subscribed by its

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

President, and its Corporate Seal, attested by its Secretary, to be affixed hereto, this first day January, in the year of our Lord one thousand eight hundred and ninety.

THE COLORADO MIDLAND RAILWAY COMPANY.

By

[SEAL]

President.

Attest:

Secretary.

[FORM OF INTEREST COUPON.]

\$30.

No.

THE COLORADO MIDLAND RAILWAY COMPANY will pay the bearer, at its fiscal agency in the City of New York, thirty dollars (\$30) in gold coin of the United States of America, on the first day 189 , being six months' interest then due on its Equipment Bond No.

Treasurer.

[FORM OF TRUSTEES' CERTIFICATE ENDORSED ON EACH BOND.]

We, B. Aymar Sands and Charles H. Woodruff, of the City of New York, do hereby certify that the within bond is one of the Equipment Bonds of the series covered by the contract of sale and trust, dated January 1st, 1890, between ourselves, as Trustees, and THE COLORADO MIDLAND RAILWAY COMPANY.

Agreement.

NOW, THEREFORE, in consideration of the premises and of the agreement and promises herein contained, it is hereby agreed between the parties hereto, to-wit:

B. Aymar Sands and
Charles H. Woodruff
agree to act as
Trustees, and as
such to receive bonds
and negotiate same
from time to time
on request of Ry. Co.
and apply proceeds
towards payment for
rolling stock.

First.—The said B. Aymar Sands and Charles H. Woodruff agree to become and act as Trustees under this agreement, for the benefit of the party or parties who shall hereafter become the owners and holders of any of said bonds, and as such will receive said bonds, and shall, from time to time, upon the written request and under the direction of the President of the Railway Company, and not otherwise, negotiate and convert the same into money, and under like direction shall apply the proceeds of said bonds

as hereinafter provided, toward the payment of the cars, locomotives and other railroad equipment to be purchased by the Trustees, under the direction of the President of the Railway Company, and not otherwise, for the use of the Railway Company.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

Second.—It is hereby further agreed, by and between the parties hereto, that to more fully secure the purchasers and holders of said bonds, the proceeds thereof shall be applied toward the payment of not more than ninety (90) per centum of the purchase price of any cars, locomotives, or other railroad equipment, which shall be purchased by the Trustees under this agreement; and that the Railway Company shall pay the remaining ten (10) per centum of such purchase price upon or before the delivery of any cars, locomotives or other equipment into the qualified possession of the Railway Company by the Trustees.

Not more than 90
per cent. of purchase
money to be so paid.

Remaining 10 per
cent. to be paid
by Ry. Co.

Third.—It is hereby further agreed, by and between the parties hereto, that the title to the cars, locomotives and other railroad equipment which shall be purchased by the Trustees, as aforesaid, shall be taken in their names, and vest in them, as Trustees, for the benefit and security of the party or parties who shall become the owner and holder of any of said bonds; and the Trustees agree that so soon as they shall have purchased and received possession of any cars, locomotives or other railroad equipment, as aforesaid, they will thereupon deliver the same into the qualified possession of the Railway Company, upon the following terms and conditions, to-wit:

Title to rolling stock
to be in Trustees
who agree to deliver
same into qualified
possession of Ry. Co.

(a.) To secure the redemption and payment of said bonds, and the full and faithful performance of the terms of this agreement, on the part of the Railway Company, no right, title or interest in and to said cars, locomotives or other railroad equipment, to be purchased as aforesaid, except the qualified possession and use thereof, shall pass from the Trustees or vest in the Railway Company until the bonds, or so many thereof as shall have been negotiated by the Trustees, shall have been fully redeemed and paid, and until the terms and conditions of this agreement shall have been otherwise fully complied with.

Title not to vest in
Ry. Co. until all the
bonds are redeemed
and paid.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.
Ry. Co. to have
qualified possession
so long as it makes
no default, and on
full performance
title to vest in it.

Provisions in case
of default.

(b.) The Railway Company shall have the qualified possession and use of said cars, locomotives and other railroad equipment, so long as it shall redeem and pay said bonds and the interest thereon, when due, as herein provided, and shall comply with and abide by this agreement; upon the full redemption and payment by the Railway Company of said bonds, or so many thereof as shall have been negotiated, together with the interest thereon, and upon the full performance and completion of this agreement, but not before, the title to the cars, locomotives and other railroad equipment which shall have been purchased under this agreement, and the absolute property and possession thereof, shall pass to and vest in the Railway Company, its successors and assigns.

(c.) If the Railway Company shall make default in the payment of the principle of, or of any of the interest on, any of said bonds, as said bonds and said interest shall become due as herein provided, and such default shall continue for the period of twenty (20) days after the payment of the same shall have been duly demanded in writing of the Railway Company, or at its agency in the City of New York, or shall cause or suffer any of said cars, locomotives or other equipment to be taken out of its possession by legal process or otherwise, the Trustees may, without demand and without legal process, resume and take possession of all the cars, locomotives or other railroad equipment purchased and held under this agreement, wherever they may be found, or of so many thereof as the Trustees may deem necessary, and transport the same to some convenient place, by them designated, at the expense of the Railway Company, and the Trustees may thereafter sell the same at public sale, after giving ten (10) days' notice to said Railway Company, and out of the proceeds of such sale pay the expenses thereof, and other expenses incurred under this agreement, or incurred by reason of any failure of the Railway Company to carry out and perform this agreement, and apply the overplus toward the redemption and payment of said bonds, and interest thereon, then outstanding and unpaid, whether the same shall or shall not

have previously become due, the Trustees having, in the event of a default of the Railway Company, as herein stated, the same privileges as to the redemption and payment of said bonds as the Railway Company has under this agreement. If the proceeds of such sale should be insufficient to pay the expenses aforesaid and the amount of said bonds, principal and interest then outstanding and unpaid, the Railway Company shall remain liable for any balance unpaid; should there remain a surplus arising from such sale after paying the said expenses and the said bonds and interest, the same shall be paid over to the Railway Company.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

Fourth.—It is hereby further agreed, by and between the parties hereto, that to determine which of said bonds shall be redeemed and paid on the first day of January in each year, for five consecutive years, commencing with the year 1895, as in said bonds provided, the Trustees shall draw by lot on some day between the fifteenth and thirtieth days, inclusive, of November in each year, for five consecutive years, commencing with the year 1894, ten per centum (10 per cent.) of the number and amount of said bonds, and notice of the result of such drawing, stating the numbers of the bonds that have been so drawn, shall be given by said Trustees by publication in some newspaper published in the City of New York, New York, for at least ten (10) consecutive days, which publication shall be commenced within ten (10) days after said drawing; and the bonds so drawn shall be redeemed and paid by the Railway Company, as in said bonds provided, on the first day of January next succeeding the date of such drawing, and after the first day of January next succeeding such drawing, the bonds so drawn shall cease to bear interest, unless default in the redemption and payment thereof shall be made by the Railway Company.

Ten per cent. of bonds
to be drawn for
redemption in each
of seven consecutive
years beginning
with 1891.

Fifth.—It is hereby further agreed, by and between the parties hereto, that the Trustees shall insure, and keep insured in some solvent insurance company or companies, by suitable policy or policies of insurance, at the expense of the Railway Company, which expense the Railway

Ry. Co. to keep
rolling stock insured
in the name of the
Trustees.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

Company agrees to pay, all the cars, locomotives, and other railroad equipment purchased under this agreement, in such sum as the Trustees may determine. Such policy or policies of insurance shall be taken in the names of said parties of the first part, as Trustees, for the holders of said bonds and for their benefit, and in the name of the Railway Company for its benefit, insuring the interests of each. In case any of the property included or intended to be included under this agreement shall be destroyed or damaged by fire, or by other casualty insured against or covered by said policy or policies, the property so destroyed or injured shall be replaced by the Trustees, who may receive and shall apply toward the replacement of such property, the moneys derived from said policy or policies of insurance. If the amount realized from said policy or policies, shall be insufficient to replace the cars, locomotives or other railroad equipment so lost or destroyed, the Railway Company shall immediately upon demand being made therefor by the Trustees, pay over to them a sum of money equal to such insufficiency, which shall be applied towards the cost of such replacement. All cars, locomotives and other railroad equipment so replaced, shall remain the property of the Trustees, until said bonds and interest are fully paid and the terms of this agreement are otherwise complied with, in the same manner and to the same extent as is provided herein, relative to the property originally purchased hereunder.

Ry. Co. to keep
rolling stock in good
condition.

Sixth.— It is hereby further agreed, by and between the parties hereto, that the Railway Company shall keep all of said cars, locomotives and other railroad equipment in good order and repair, and if any one or more of the same shall be injured or destroyed, either on the road of the Railway Company or elsewhere, the Railway Company shall forthwith repair or replace such cars, locomotives or other railroad equipment so injured or destroyed.

Provision for annual
inspection of rolling
stock by agent
of Trustees.

Seventh.— It is hereby further agreed, by and between the parties hereto, that the Trustees may annually, and until said bonds and interest are fully paid, and the terms of this agreement are otherwise fully complied with, ap-

point a competent person to inspect the said cars, locomotives and other railroad equipment, and report in writing to them the condition of the same, and that the Railway Company shall pay all the expenses incident to such inspection. If the person so appointed to make such inspection shall report that the said cars, locomotives and other railroad equipment, or any part thereof, are not in good condition and that the same are in need of repairs, the Railway Company shall be furnished with a copy of such report, and shall immediately thereafter cause such repairs to be made thereto as shall be specified in said report. If the Railway Company shall fail or neglect to make such repairs within a reasonable time after receipt of such report, the Trustees may retake and resume the possession of all said cars, locomotives and other railroad equipment, sell the same and apply the proceeds of such sale in the manner hereinbefore provided for the sale of such equipment and the application of the proceeds thereof, in case of default being made in the redemption and payment of said bonds.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

Eighth.—It is hereby further agreed, by and between the parties hereto, that upon the delivery by the Trustees, of any cars, locomotives or other railroad equipment to the Railway Company, under this agreement, the Railway Company shall give its receipt therefor to the Trustees, which receipt shall state that the cars, locomotives or other railroad equipment so delivered to the Railway Company, are received into its possession in pursuance of, and under the terms and conditions of this agreement.

Receipts to be given
by Ry. Co. to Trustees
as rolling stock
is delivered.

Ninth.—It is hereby further agreed, by and between the parties hereto, that the cars, locomotives and other railroad equipment which shall be delivered into the possession of the Railway Company, under and in pursuance of the terms hereof, shall in no way or manner, and under no circumstances, become fixtures during the existence of this agreement, or while the same remains unperformed.

Rolling stock not
to become fixtures
during existence of
trust

Tenth.—It is hereby further agreed, by and between the parties hereto, that all the cars, locomotives and other railroad equipment purchased under this agreement, shall

Rolling stock how
to be marked.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.
Compensation
of Trustees.

Provision for
appointment of new
trustee in case
of vacancy.

Remaining or
surviving trustee to
have power to act
during vacancy.

Attesting clause.

be designated by marking thereon, or affixing thereto, on an iron or other plate, these words: "Property of Sands & Woodruff, Trustees, Series B."

Eleventh.—The Railway Company hereby agrees and promises to pay to the Trustees a reasonable compensation for their services as such Trustees under this agreement.

Twelfth.—It is hereby further agreed, that in case a vacancy shall occur in the Trusteeship hereby created, by the default, resignation, removal or other incapacity to act, of either of the said Trustees, or of any Trustee hereafter appointed, such vacancy shall be filled by the appointment of such person as may be agreed upon by the remaining Trustee and the President of the Railway Company; and in case of the death, resignation, removal or other incapacity to act of both of said Trustees, or of any two Trustees that may hereafter be appointed, or in the event that a vacancy shall occur in one of the Trusteeships, and the remaining Trustee and the President of the Railway Company shall be unable to agree upon a person to fill such vacancy, then and in either of such events, such vacancy or vacancies shall be filled by the election or appointment of such person or persons as a majority in interest, of the holders of said bonds then outstanding, shall in writing nominate; such nomination to be made to the President of the Railway Company. And during any vacancy in any Trusteeship hereby created, the remaining or surviving Trustee shall have power to execute this Trust in all respects as though he was the sole Trustee hereunder, until the vacancy shall be filled.

IN WITNESS WHEREOF, the said B. AYMAR SANDS and CHARLES H. WOODRUFF, the parties of the first part, have hereunto set their hands and seals, and the said THE COLORADO MIDLAND RAILWAY COMPANY, the party of the second part, has caused this agreement to be subscribed officially by its Vice-President, and its corporate seal, attested by its Secretary, to be hereunto affixed the day and year above written.

B. AYMAR SANDS. [SEAL]
CHAS. H. WOODRUFF. [SEAL]

THE COLORADO MIDLAND RAILWAY COMPANY.

By HENRY T. ROGERS,

[SEAL]

*Vice-President.*Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

Attest:

E. W. SELLS,

*Secretary.*STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.Acknowledgment
of Trustees.

B. Aymar Sands and Charles H. Woodruff appeared before me this 11th day of March 1890, in person, and each acknowledged the foregoing instrument to be his act and deed for the uses specified therein.

Witness my hand and official seal.

HENRY P. BUTLER,

[SEAL]

*Notary Public ;
New York County.*STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.

I, Edward F. Reilly, Clerk of the City and County of New York, and also Clerk of the Supreme Court for the said City and County, the same being a Court of Record, Do Hereby Certify that Henry P. Butler, whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument and thereon written was at the time of taking such proof or acknowledgment a Notary Public in and for the City and County of New York, dwelling in said City, commissioned and sworn, and duly authorized to take the same.

Certificate as to
qualification of
Notary taking
foregoing
acknowledgment.

And further, that I am well acquainted with the handwriting of such Notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

[SEAL] IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County the 12th day of Mch, 1890.

EDWARD F. REILLY,

Clerk.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.
Acknowledgment
of Ry. Co.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this First day of March, 1890, before me, L. B. Johnson, a Notary Public within and for said county, personally appeared the above named HENRY T. ROGERS, to me personally known, and known to me to be the Vice-President of said THE COLORADO MIDLAND RAILWAY COMPANY, and acknowledged that he executed said instrument by order of the Board of Directors of said Company, as its free and voluntary act and deed, and as his own free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above mentioned.

L. B. JOHNSON,
Notary Public.

[SEAL]

My commission expires Dec. 24, 1892.

Affidavit of Secretary
of Ry. Co. as to
corporate seal and
authority to affix
same.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

On this third day of March, 1890, before me, a Notary Public within and for the said County and State, personally appeared the above named E. W. SELLS, to me personally known, and known to me to be the Secretary of said THE COLORADO MIDLAND RAILWAY COMPANY, and who, being by me duly sworn, did depose and say that the seal affixed to the foregoing instrument is the corporate seal of the said THE COLORADO MIDLAND RAILWAY COMPANY, and that said seal was affixed thereto and attested by him as Secretary of said Company by order of the Board of Directors of said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year above mentioned.

JOHN DEWITT PELTZ,
*Notary Public for
El Paso County, Colorado.*

[SEAL]

My commission expires March 16th 1890. (Chaffee County 1892.)

THE FOREGOING CONTRACT was filed in the following Filing of foregoing
contract.
Counties at the times named:

El Paso,	March 19, 1890	
Park,	March 19, 1890, and numbered	24,975
Chaffee,	March 17, 1890, " "	38,264
Lake,	March 19, 1890, " "	78,834
Pitkin,	March 20, 1890, " "	35,389
Eagle,	March 19, 1890, " "	7,605
Garfield,	March 19, 1892, " "	10,169

AGREEMENT

BETWEEN THE

WESTERN UNION TELEGRAPH COMPANY

AND

THE COLORADO MIDLAND RAILWAY COMPANY

CONCERNING THE OPERATION OF THE TELEGRAPH LINES
OF THE SAID RAILWAY COMPANY.

May 7, 1886.
Parties.

THIS AGREEMENT, made and entered into this seventh day of May, 1886, by and between the Western Union Telegraph Company, of the first part, and The Colorado Midland Railway Company, of the second part, hereinafter respectively designated as the Telegraph Company and the Railway Company,

Proposed construction
of telegraph line along
road of Ry. Co.

WITNESSETH, that, whereas, the Railway Company is constructing a line of railroad from Leadville, in the State of Colorado, to the Colorado and Utah boundary line, and also proposes to extend said railroad from Leadville to Colorado Springs, Colorado; and it is proposed that a telegraph line shall be constructed, maintained and operated along said railroad, and along all extensions and branches thereof;

Agreement.

NOW THEREFORE, for and in consideration of the covenants and agreements herein contained, the parties hereto have mutually agreed as follows:

Ry. Co. to furnish and
distribute cedar poles

First.—The Railway Company agrees to furnish and distribute for the Telegraph Company along the Railway Company's line of railroad, between Leadville and said boundary line, and between Leadville and Colorado Springs, aforesaid, and along all extensions and branches thereof, as fast as the same shall be completed and in operation, cedar poles, well proportioned and properly peeled, not less than thirty (30) poles to the mile, and at least twenty-five (25)

feet in length and six (6) inches in diameter at the small end.

The Railway Company also agrees to furnish all the labor to dig holes and set said poles in the ground and to place the wire and insulators thereon under the direction of a foreman to be furnished by the Telegraph Company. And the Railway Company agrees to maintain said poles and the wire or wires thereon in good order and repair, and to reconstruct or renew said poles and wire or wires when necessary, wire and insulators for such repair, reconstruction or renewal being furnished by the Telegraph Company, as hereinafter provided, and the poles for such repair, reconstruction or renewal to be furnished by the Railway Company.

The Telegraph Company agrees to furnish a foreman who shall oversee and direct the work of construction and reconstruction herein provided for.

Second.—The Telegraph Company agrees to furnish at some station on the line of said railroad number nine galvanized wire and insulators for the construction of a telegraph line of one wire along said railroad, between Leadville and said boundary line, and between Leadville and Colorado Springs, aforesaid, and along all extensions and branches of said railroad, as fast as the same shall be completed and in operation, and the Telegraph Company further agrees to furnish wire and insulators for the maintenance, repair and reconstruction or renewal of its line and its wires along said railroad and extensions and branches thereof, and will deliver the same as above free of cost to the Railway Company as they may be needed.

The Telegraph Company will also furnish the use of its main batteries for the operation of the wires herein provided for.

Third.—The Telegraph Company agrees to set apart the first wire erected along said railroad, and the first wire erected along extensions and branches thereof, for the joint use of the parties hereto in the transmission of railroad and commercial telegraph business, it being agreed that the Railway Company's messages of an important character,

Agreement between
W. U. Tel. Co and
C. M. Ry. Co.

Ry. to set poles in
ground and place
wire and insulators
thereon and maintain
and repair same.

Tel. Co. to furnish
foreman.

Tel. Co. to furnish
wire and insulators.

Tel. Co. to furnish
use of its main
batteries

Tel. Co. to set aside
first wire erected for
joint use of the
parties and important
messages of Ry. Co.
to have precedence.

Agreement between
W. U. Tel. Co. and
C. M. Ry. Co.

Whenever railroad
business requires
exclusive use of wire,
Tel. Co. on 60 days'
notice is to furnish
material for a wire
for commercial
business and Ry. to
furnish labor for
erecting same.

After erection of
second wire, Ry. Co.
to have use of first.

Provision in case
of interruption of
one wire.

Telegraph stations,
batteries and
stationery.

Telegraph stations
of Ry Co how to
be conducted.

directing the movement of trains, shall have precedence over said joint wire.

Whenever the railroad business of the Railway Company requires the exclusive use of said joint wire, the Telegraph Company on receiving sixty days' written notice, agrees to furnish the material for the construction of a wire for commercial business, the Railway Company agreeing to furnish the labor and pay the expenses of erecting the same, under the direction of a foreman to be furnished by the Telegraph Company.

After the erection of said second wire, the first wire shall be set apart for the Railway Company's railroad business exclusively, and for such commercial business as can be done thereon without interfering with said railroad business.

In case of the interruption of either one of said two wires, the business of both parties hereto shall, as far as practicable, be done over the working wire, important Railroad messages directing the movement of trains having precedence.

Fourth.— Either party to this agreement may establish and maintain telegraph stations at such places on said railroad as it may deem necessary, and at all such stations as the Railway Company may establish, the Telegraph Company agrees to supply Morse instruments and local batteries and blank forms and stationery for commercial business.

At all telegraph stations of the Railway Company it shall furnish operators at its own expense; and its operators and other employees acting as agents of the Telegraph Company, shall receive, transmit and deliver, exclusively for the Telegraph Company, party hereto, such commercial or public messages as may be offered, and shall charge the tariff rates of the Telegraph Company thereon, and shall render to the Telegraph Company exclusively, monthly statements of such business and full accounts of all receipts therefrom, and the Railway Company agrees to pay all of such receipts to the Telegraph Company in such manner and at such times as it may direct. And said employees

shall not, without the consent of the Telegraph Company transmit over said telegraph line any free messages except those herein provided for, and concerning all telegraph business, whether paid or free, shall conform to all rules and regulations and orders of the Telegraph Company applicable thereto.

Agreement between
W. U. Tel. Co. and
C. M. Ry. Co.

No employee of the Railway Company shall, while in its service, be employed in the transaction of commercial or public business by any party other than the Telegraph Company party hereto; and the Telegraph Company shall have the exclusive right to the occupancy of the Railway Company's depots and station houses for commercial or public business as against any other party.

Fifth.—The Railway Company, so far as it legally may, hereby grants and agrees to assure to the Telegraph Company, the exclusive right of way on along and under the line, lands and bridges of the Railway Company, and any extensions and branches thereof, for the construction, maintenance operation and use of line of poles and wires underground or other lines for commercial or public uses or business, with the right to put up or construct or cause to be put up or constructed, from time to time, such additional wires and such additional lines of poles and wires and underground or other lines as the Telegraph Company may deem expedient, and the Railway Company agrees to clear and keep clear said right of way of all trees, undergrowth and other obstructions to the construction and maintenance of the lines and wires provided for herein, and the Railway Company will not transport men or material for the construction, maintenance or operation of a line of poles and wire or wires or underground or other line in competition with the lines of the Telegraph Company party hereto, except at and for the Railway Company's regular local rates, nor will it furnish for any competing line any facilities or assistance that it may lawfully withhold, nor stop its trains, nor distribute material therefor at other than regular stations.

Grant of right of way
by Ry. Co. to Tel. Co.

Provision to restrict
Ry. Co. from assisting
competing line.

PROVIDED ALWAYS, that in protecting and defending the exclusive grants conveyed by this contract, The Telegraph

Tel. Co. may use
name of Ry. Co.
indemnifying it.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

Company agrees to pay, all the cars, locomotives, and other railroad equipment purchased under this agreement, in such sum as the Trustees may determine. Such policy or policies of insurance shall be taken in the names of said parties of the first part, as Trustees, for the holders of said bonds and for their benefit, and in the name of the Railway Company for its benefit, insuring the interests of each. In case any of the property included or intended to be included under this agreement shall be destroyed or damaged by fire, or by other casualty insured against or covered by said policy or policies, the property so destroyed or injured shall be replaced by the Trustees, who may receive and shall apply toward the replacement of such property, the moneys derived from said policy or policies of insurance. If the amount realized from said policy or policies, shall be insufficient to replace the cars, locomotives or other railroad equipment so lost or destroyed, the Railway Company shall immediately upon demand being made therefor by the Trustees, pay over to them a sum of money equal to such insufficiency, which shall be applied towards the cost of such replacement. All cars, locomotives and other railroad equipment so replaced, shall remain the property of the Trustees, until said bonds and interest are fully paid and the terms of this agreement are otherwise complied with, in the same manner and to the same extent as is provided herein, relative to the property originally purchased hereunder.

Ry. Co. to keep
rolling stock in good
condition.

Sixth.— It is hereby further agreed, by and between the parties hereto, that the Railway Company shall keep all of said cars, locomotives and other railroad equipment in good order and repair, and if any one or more of the same shall be injured or destroyed, either on the road of the Railway Company or elsewhere, the Railway Company shall forthwith repair or replace such cars, locomotives or other railroad equipment so injured or destroyed.

Provision for annual
inspection of rolling
stock by agent
of Trustees.

Seventh.— It is hereby further agreed, by and between the parties hereto, that the Trustees may annually, and until said bonds and interest are fully paid, and the terms of this agreement are otherwise fully complied with, ap-

point a competent person to inspect the said cars, locomotives and other railroad equipment, and report in writing to them the condition of the same, and that the Railway Company shall pay all the expenses incident to such inspection. If the person so appointed to make such inspection shall report that the said cars, locomotives and other railroad equipment, or any part thereof, are not in good condition and that the same are in need of repairs, the Railway Company shall be furnished with a copy of such report, and shall immediately thereafter cause such repairs to be made thereto as shall be specified in said report. If the Railway Company shall fail or neglect to make such repairs within a reasonable time after receipt of such report, the Trustees may retake and resume the possession of all said cars, locomotives and other railroad equipment, sell the same and apply the proceeds of such sale in the manner hereinbefore provided for the sale of such equipment and the application of the proceeds thereof, in case of default being made in the redemption and payment of said bonds.

Contract of Sale and
Trust securing
Equipment bonds
Series B of
C. M. Ry. Co.

Eighth.—It is hereby further agreed, by and between the parties hereto, that upon the delivery by the Trustees, of any cars, locomotives or other railroad equipment to the Railway Company, under this agreement, the Railway Company shall give its receipt therefor to the Trustees, which receipt shall state that the cars, locomotives or other railroad equipment so delivered to the Railway Company, are received into its possession in pursuance of, and under the terms and conditions of this agreement.

Receipts to be given
by Ry. Co. to Trustees
as rolling stock
is delivered.

Ninth.—It is hereby further agreed, by and between the parties hereto, that the cars, locomotives and other railroad equipment which shall be delivered into the possession of the Railway Company, under and in pursuance of the terms hereof, shall in no way or manner, and under no circumstances, become fixtures during the existence of this agreement, or while the same remains unperformed.

Rolling stock not
to become fixtures
during existence of
trust

Tenth.—It is hereby further agreed, by and between the parties hereto, that all the cars, locomotives and other railroad equipment purchased under this agreement, shall

Rolling stock how
to be marked.

LEASED LINES
OF
THE COLORADO MIDLAND RAILWAY
COMPANY.

ARTICLES OF INCORPORATION
OF
THE ASPEN SHORT LINE RAILWAY COMPANY.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, {
STATE OF COLORADO, { ss.

Articles filed
Nov. 15, 1888.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Incorporation of The Aspen Short Line Railway Company which was filed in this Office the Fifteenth day of November A.D. 1888 at 3.45 o'clock P.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Fourteenth day of July A.D. 1892.

E. J. EATON,
Secretary of State.

Names of
incorporators.

KNOW ALL MEN BY THESE PRESENTS:—

That we, the undersigned, HENRY T. ROGERS, CHARLES E. NOBLE, CHARLES E. HARRIS, JR., ROBERT C. HOTSON and EDWIN F. DRAPER, all residents of the City of Colorado Springs, State of Colorado, desiring to associate ourselves together for the purpose of forming a Company under and in pursuance of the provisions of the laws of the

State of Colorado relating to the formations of Corporations, do make, sign and acknowledge these our original Articles of Incorporation, and do state and declare as follows, to wit:

Art of Inc. Aspen
Short Line Ry. Co.

First. That the corporate name of this Company shall be: "THE ASPEN SHORT LINE RAILWAY COMPANY."

Corporate name.

Second. That this Company is organized and created for the following objects and purposes, to wit:

Corporate purposes
and authorized lines.

To create, or acquire, by construction, purchase or otherwise, and to maintain and operate a line or lines of railway, with property appurtenant thereto, extending from a point on the Colorado Midland Railway, in Section Twenty-two (22), Township Ten (10) South, Range Eighty (80) West of the Sixth Principal Meridian, in the County of Lake and State of Colorado, near the railway station known as Crystal Lake Station, running thence in a north-westerly direction, by the most feasible route, to a point or points on said Colorado Midland Railway in Section Twenty (20), Township Nine (9) South, Range Eighty (80) West of the Sixth Principal Meridian, said County of Lake, with necessary side tracks, and with such spurs and branches as may be necessary or desirable for the purpose of enabling the said Company to reach mines, smelters or other works adjacent or tributary to its said line of road; to construct, or acquire by purchase or otherwise, and to operate a line or lines of telegraph in connection with said line of railway; to lease to any other railway or telegraph company or companies, its said line or lines of railway or telegraph, or any portion thereof, upon such terms as may be agreed upon between this Company and such other Company or Companies; to establish, maintain and conduct an express business along and upon said line of railway and upon any other line of railway connected therewith; to purchase, acquire, own, hold, manage and operate by lease, consolidation, or otherwise, other railways situate within or without said State of Colorado, whenever and as thereunto duly authorized by law; to purchase, acquire, own and hold coal mines and other mines, stone quarries and timber lands along, adjacent or tributary to the said line of road,

Telegraph lines.

Express business.

Purchases of other
roads, lease and
consolidations.

Purchase of mines,
quarries and timber
lands.

AGREEMENT

BETWEEN THE

WESTERN UNION TELEGRAPH COMPANY

AND

THE COLORADO MIDLAND RAILWAY COMPANY

CONCERNING THE OPERATION OF THE TELEGRAPH LINES
OF THE SAID RAILWAY COMPANY.

May 7, 1886.
Parties.

THIS AGREEMENT, made and entered into this seventh day of May, 1886, by and between the Western Union Telegraph Company, of the first part, and The Colorado Midland Railway Company, of the second part, hereinafter respectively designated as the Telegraph Company and the Railway Company,

Proposed construction
of telegraph line along
road of Ry. Co.

WITNESSETH, that, whereas, the Railway Company is constructing a line of railroad from Leadville, in the State of Colorado, to the Colorado and Utah boundary line, and also proposes to extend said railroad from Leadville to Colorado Springs, Colorado; and it is proposed that a telegraph line shall be constructed, maintained and operated along said railroad, and along all extensions and branches thereof;

Agreement.

NOW THEREFORE, for and in consideration of the covenants and agreements herein contained, the parties hereto have mutually agreed as follows:

Ry. Co to furnish and
distribute cedar poles

First.—The Railway Company agrees to furnish and distribute for the Telegraph Company along the Railway Company's line of railroad, between Leadville and said boundary line, and between Leadville and Colorado Springs, aforesaid, and along all extensions and branches thereof, as fast as the same shall be completed and in operation, cedar poles, well proportioned and properly peeled, not less than thirty (30) poles to the mile, and at least twenty-five (25)

feet in length and six (6) inches in diameter at the small end.

The Railway Company also agrees to furnish all the labor to dig holes and set said poles in the ground and to place the wire and insulators thereon under the direction of a foreman to be furnished by the Telegraph Company. And the Railway Company agrees to maintain said poles and the wire or wires thereon in good order and repair, and to reconstruct or renew said poles and wire or wires when necessary, wire and insulators for such repair, reconstruction or renewal being furnished by the Telegraph Company, as hereinafter provided, and the poles for such repair, reconstruction or renewal to be furnished by the Railway Company.

The Telegraph Company agrees to furnish a foreman who shall oversee and direct the work of construction and reconstruction herein provided for.

Second.—The Telegraph Company agrees to furnish at some station on the line of said railroad number nine galvanized wire and insulators for the construction of a telegraph line of one wire along said railroad, between Leadville and said boundary line, and between Leadville and Colorado Springs, aforesaid, and along all extensions and branches of said railroad, as fast as the same shall be completed and in operation, and the Telegraph Company further agrees to furnish wire and insulators for the maintenance, repair and reconstruction or renewal of its line and its wires along said railroad and extensions and branches thereof, and will deliver the same as above free of cost to the Railway Company as they may be needed.

The Telegraph Company will also furnish the use of its main batteries for the operation of the wires herein provided for.

Third.—The Telegraph Company agrees to set apart the first wire erected along said railroad, and the first wire erected along extensions and branches thereof, for the joint use of the parties hereto in the transmission of railroad and commercial telegraph business, it being agreed that the Railway Company's messages of an important character,

Agreement between
W. U. Tel. Co and
C. M. Ry. Co.

Ry. to set poles in
ground and place
wire and insulators
thereon and maintain
and repair same.

Tel. Co. to furnish
foreman.

Tel. Co. to furnish
wire and insulators.

Tel. Co. to furnish
use of its main
batteries

Tel. Co. to set aside
first wire erected for
joint use of the
parties and important
messages of Ry. Co.
to have precedence.

Agreement between
W. U. Tel. Co. and
C. M. Ry. Co.

Whenever railroad
business requires
exclusive use of wire,
Tel. Co. on 60 days'
notice is to furnish
material for a wire
for commercial
business and Ry. to
furnish labor for
erecting same.

After erection of
second wire, Ry. Co.
to have use of first.

Provision in case
of interruption of
one wire.

Telegraph stations,
batteries and
stationary.

Telegraph stations
of Ry Co how to
be conducted.

directing the movement of trains, shall have precedence over said joint wire.

Whenever the railroad business of the Railway Company requires the exclusive use of said joint wire, the Telegraph Company on receiving sixty days' written notice, agrees to furnish the material for the construction of a wire for commercial business, the Railway Company agreeing to furnish the labor and pay the expenses of erecting the same, under the direction of a foreman to be furnished by the Telegraph Company.

After the erection of said second wire, the first wire shall be set apart for the Railway Company's railroad business exclusively, and for such commercial business as can be done thereon without interfering with said railroad business.

In case of the interruption of either one of said two wires, the business of both parties hereto shall, as far as practicable, be done over the working wire, important Railroad messages directing the movement of trains having precedence.

Fourth.— Either party to this agreement may establish and maintain telegraph stations at such places on said railroad as it may deem necessary, and at all such stations as the Railway Company may establish, the Telegraph Company agrees to supply Morse instruments and local batteries and blank forms and stationery for commercial business.

At all telegraph stations of the Railway Company it shall furnish operators at its own expense; and its operators and other employees acting as agents of the Telegraph Company, shall receive, transmit and deliver, exclusively for the Telegraph Company, party hereto, such commercial or public messages as may be offered, and shall charge the tariff rates of the Telegraph Company thereon, and shall render to the Telegraph Company exclusively, monthly statements of such business and full accounts of all receipts therefrom, and the Railway Company agrees to pay all of such receipts to the Telegraph Company in such manner and at such times as it may direct. And said employees

FIRST MORTGAGE

OF

THE ASPEN SHORT LINE RAILWAY COMPANY.

THIS INDENTURE, made and entered into this first Jan. 1, 1889.
day of January, in the year one thousand, eight hundred
and eighty-nine, by and between THE ASPEN SHORT LINE Parties.
RAILWAY COMPANY, hereinafter termed "The Railway
Company," a corporation duly organized and existing under
and by virtue of the laws of the State of Colorado, party of
the first part, and B. AYMAR SANDS and CHARLES H.
WOODRUFF, of New York City, hereinafter termed "the
Trustees," or "the said Trustees," parties of the second
part, WITNESSETH, that

WHEREAS, The Railway Company has, under and by Authorized line.
virtue of the laws of the State of Colorado and of its cer-
tificate of incorporation, become entitled to survey, locate,
construct, maintain and operate a railway and telegraph
line from a point on the Colorado Midland Railway in sec-
tion twenty-two (22), township ten (10) south, range
eighty (80) west of the sixth principal meridian, in the
County of Lake, State of Colorado, near the railway station
known as Crystal Lake station, thence in a northwesterly
direction, by the most feasible route to a point or points
on said Colorado Midland Railway, in section twenty (20),
township nine (9) south, range eighty (80) west of the
sixth principal meridian, in said County of Lake, with
necessary side tracks and other appurtenances of a railway;
and

WHEREAS, The Railway Company has, in pursuance of Construction of
road and desire
to borrow money
to pay for same.
the authority to it granted, as aforesaid, constructed, and
is now operating, or prepared to operate its said railway,
the same being six and one-half ($6\frac{1}{2}$) miles of main track,

Agreement between
W. U. Tel. Co.
and C. M. Ry. Co.

Company may use and proceed in the name of the Railway Company, but shall indemnify and save harmless the Railway Company from any and all damages, costs, charges and legal expenses incurred therein or thereby.

Messages of officers
and agents of Ry. Co.
on railroad business
free.

Sixth.— All messages of the officers and agents of the Railway Company, pertaining to its railroad business, may be transmitted free of charge on the wire set apart for said business between all telegraph stations on the line of said railroad.

Provision for issuing
of annual franks.

The Telegraph Company agrees to issue to such officers of the Railway Company, as may be designated by the President or General Superintendent thereof, annual franks, authorizing the free transmission of messages relating strictly to the railroad business of the Railway Company's railroad covered by this agreement, originating at and destined to points on the Telegraph Company's lines in the United States, beyond or off the line of said railroad, to an amount not exceeding six dollars (\$6.00) per annum per mile of railroad constructed by the Railway Company and occupied by a telegraph line erected thereon and operated under the provisions of this agreement.

Provision for
payment by Ry. Co.
for messages in
excess of amount
allowed.

The tolls on all of such messages to and from points beyond or off the line of said railroad shall be calculated at the regular commercial day rates of the Telegraph Company between the points at which such messages originate and the points to which they may be destined. And the Railway Company agrees to pay to the Telegraph Company one half of its aforesaid rates on all such messages in excess of said amount. Settlements to be made yearly.

Free service confined
to operation and busi-
ness of railroad.

It is understood and agreed that the free telegraphic service herein provided for applies only to the transmission of messages concerning the operation and business of the Railway Company's railroad covered by this agreement, and shall not be extended to any messages for transmission by cable, nor to messages ordering sleeping car, parlor car or steamer berths, merchandise or accommodations for customers of the Railway Company, the tolls on which should properly be chargeable to such customers.

Free transportation
by Ry. Co.

Seventh.— The Railway Company agrees to transport

free of charge over its railroad upon application of the Superintendent or other officer of the Telegraph Company, all persons in the employ of the Telegraph Company when travelling on the business of said company; and also to transport and distribute free of charge along the line of its railroad, all poles and other material and supplies for the construction, maintenance, operations, repair and reconstruction of the lines and wires covered by this agreement; and of such additional wires and lines of poles and wires as may be erected under the provisions of this agreement; also all material and supplies for the establishment, maintenance and operation of the offices of both parties hereto at places along and adjacent to said railroad.

And the Railway Company further agrees to transport without charge the poles and other material and supplies of the Telegraph Company to be used on its lines beyond or off the line of said railroad, to an amount computed at the regular current transportation rates of the Railway Company, not exceeding one half ($\frac{1}{2}$) of the amount of free telegraphic service which the Telegraph Company herein agrees to perform for the Railway Company beyond the line of its railroad; and the Telegraph Company agrees to pay to the Railway Company one half of its aforesaid rates on all such transportation of poles and other material and supplies in excess of said amount. Settlements to be made yearly.

Eighth.—If the Telegraph Company elects to establish an office at a station of the Railway Company, the Railway Company shall furnish office room, light and fuel free of charge in such station, and if at such station one person can attend to the telegraph business of both companies, the agent of the Telegraph Company, acting for and as the agent of the Railway Company in the premises, shall do such business of the Railway Company without charge. Whenever the telegraph business of both companies at any such office becomes so large that more than one operator is needed to attend to it, then the Railway Company shall employ and pay its own operator.

Ninth.—The Railway Company shall have the right to

Agreement between
W. U. Tel. Co. and
C. M. Ry. Co.

Certain persons and
materials to be
transported free.

Limitation in
amount of free
transportation.

Agreement of Tel.
Co. as to payment
for excess.

Offices of Tel. Co.
at stations of
Ry. Co.

Free use of patent
rights.

Agreement between
W. U. Tel. Co. and
C. M. Ry. Co.

the free use of any telegraphic patent rights or new discoveries or inventions that the Telegraph Company now owns and uses in its general telegraph business, or which it may hereafter own and use as aforesaid, so far as the same may be necessary to properly carry on the business of railroad telegraphing on the line of said railroad as provided for herein.

Mutual agreements
of indemnity, against
loss during free trans-
portation or service.

Tenth.— It is a condition of this contract that the Railway Company is not to be responsible for, and the Telegraph Company hereby covenants and agrees to save the Railway Company harmless and indemnify it against any loss or damages of any kind arising from any injury to persons in the employ of, or property belonging to the Telegraph Company while being carried free over said railroad under this agreement, and from any neglect or failure on the transmission or delivery of messages for any person doing business with the Telegraph Company, and on account of any other public telegraph business; and the Telegraph Company shall not be responsible for, and the Railway Company agrees to indemnify and save harmless the Telegraph Company against any loss or damages of any kind arising from or on account of any error, failure or delay in the transmission or delivery of messages sent for the Railway Company under this agreement.

Telegraph line to be
controlled and rates
fixed by Tel. Co.

Eleventh.— It is mutually understood and agreed that the telegraph line, poles, wires and fixtures covered by this contract shall form part of the general telegraph system of the Telegraph Company, and shall be controlled and regulated by the Telegraph Company, which shall fix and determine all tariffs for the transmission of messages, and all connections with other lines and wires.

Contract to cover
all railroads now
or hereafter owned
or controlled by
Ry. Co.

To be in force for
25 years from June
1, 1886, and thereafter
until terminated by
one year's notice.

Twelfth.— The provisions of this contract shall extend to all railroads now owned or controlled and to all railroads hereafter owned or controlled by the Railway Company, and to all branches and extensions thereof, and the provisions of this agreement shall be and continue in force for and during the term of twenty five (25) years from the first (1st) day of June, 1886; and shall continue after the close of said term until the expiration of one (1) year after

written notice shall have been given after the close of said term by either party to the other of an intention to terminate the same, and in case of any disagreement concerning the true intent and meaning of any of said provisions, the subject of such difference shall be referred to three arbitrators, one to be chosen by each party hereto, and the third by the two others chosen, and the decision of such arbitrators, or of a majority thereof, shall be final and conclusive.

Agreement between
W. U. Tel. Co.
and C. M. Ry. Co.
Provision for
arbitration.

IN WITNESS WHEREOF, the parties to these presents have caused the names of their proper officers to be hereunto subscribed, and their corporate seals to be attested the day and year first above written.

Attesting clause.

THE WESTERN UNION TELEGRAPH COMPANY.

By THOS. T. ECKERT,
[SEAL] *Vice-President.*
A. R. BREWER,
Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

By J. J. HAGERMAN,
[SEAL] *President.*
Attest :
CHARLES A. LANSING,
Secretary.

LEASED LINES
OF
THE COLORADO MIDLAND RAILWAY
COMPANY.

ARTICLES OF INCORPORATION
OF
THE ASPEN SHORT LINE RAILWAY COMPANY.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, {
STATE OF COLORADO, } ss.

Articles filed
Nov. 15, 1888.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Incorporation of The Aspen Short Line Railway Company which was filed in this Office the Fifteenth day of November A.D. 1888 at 3.45 o'clock P.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Fourteenth day of July A.D. 1892.

E. J. EATON,
Secretary of State.

Names of
incorporators.

KNOW ALL MEN BY THESE PRESENTS:—

That we, the undersigned, HENRY T. ROGERS, CHARLES E. NOBLE, CHARLES E. HARRIS, JR., ROBERT C. HOTSON and EDWIN F. DRAPER, all residents of the City of Colorado Springs, State of Colorado, desiring to associate ourselves together for the purpose of forming a Company under and in pursuance of the provisions of the laws of the

State of Colorado relating to the formations of Corporations, do make, sign and acknowledge these our original Articles of Incorporation, and do state and declare as follows, to wit:

First. That the corporate name of this Company shall be: "THE ASPEN SHORT LINE RAILWAY COMPANY."

Second. That this Company is organized and created for the following objects and purposes, to wit:

To create, or acquire, by construction, purchase or otherwise, and to maintain and operate a line or lines of railway, with property appurtenant thereto, extending from a point on the Colorado Midland Railway, in Section Twenty-two (22), Township Ten (10) South, Range Eighty (80) West of the Sixth Principal Meridian, in the County of Lake and State of Colorado, near the railway station known as Crystal Lake Station, running thence in a north-westerly direction, by the most feasible route, to a point or points on said Colorado Midland Railway in Section Twenty (20), Township Nine (9) South, Range Eighty (80) West of the Sixth Principal Meridian, said County of Lake, with necessary side tracks, and with such spurs and branches as may be necessary or desirable for the purpose of enabling the said Company to reach mines, smelters or other works adjacent or tributary to its said line of road; to construct, or acquire by purchase or otherwise, and to operate a line or lines of telegraph in connection with said line of railway; to lease to any other railway or telegraph company or companies, its said line or lines of railway or telegraph, or any portion thereof, upon such terms as may be agreed upon between this Company and such other Company or Companies; to establish, maintain and conduct an express business along and upon said line of railway and upon any other line of railway connected therewith; to purchase, acquire, own, hold, manage and operate by lease, consolidation, or otherwise, other railways situate within or without said State of Colorado, whenever and as thereunto duly authorized by law; to purchase, acquire, own and hold coal mines and other mines, stone quarries and timber lands along, adjacent or tributary to the said line of road,

Art of Inc. Aspen
Short Line Ry. Co.

Corporate name.

Corporate purposes
and authorized lines.

Telegraph lines.

Express business.

Purchases of other
roads, lease and
consolidations.

Purchase of mines,
quarries and timber
lands.

Art. of Inc. Aspen
Short Line Ry. Co.

General power to
purchase, hold and
lease property.

To purchase, hold
and dispose of stock
and bonds of other
companies.

To borrow money,
issue bonds and
secure same by
mortgage.

Right of eminent
domain and rights
in connection with
tracks of other
companies.

General powers
as common carrier
and railway company.

Term of corporate
existence.

Capital stock.

Directors.

and to use, operate and maintain the same or any part thereof, if deemed essential to the promotion of its interests; to purchase, acquire, own, hold, use and maintain all such real and personal property as may be necessary for, or may contribute to the attainment of the objects of its existence, or the transaction of its business, and from time to time to lease or sell the same, or any part thereof, when in the judgment of its duly authorized officers it is no longer needed for the uses of the Company; to purchase, acquire, own, hold and dispose of the stock and bonds of other railway or construction companies in said State of Colorado, or elsewhere; to borrow money, execute and issue its bonds or other securities therefor, and to mortgage its property and franchises as security for such bonds or other obligations; to exercise the right of eminent domain; to cross, intersect or connect its railway with any other railway; to operate exclusively or jointly, with the owner thereof, its trains over any railway which now exists, or may hereafter exist, and with which this railway may at any time be connected; to do any act or transact any business which any common carrier of persons and property may lawfully do, and generally to have all the powers granted to railway or railroad companies by, under or in pursuance of the laws of the State of Colorado.

Third. The term of the existence of this Company shall be fifty (50) years from the date of the filing of this Certificate in the office of the Secretary of State of Colorado, and its corporate existence may be renewed in such manner and for such periods as may be authorized by the laws of said State.

Fourth. The Capital Stock of this Company shall be Ten Thousand Dollars (\$10,000.00), divided into One Hundred (100) Shares, of the par value of One Hundred Dollars (\$100.00) each.

Fifth. This Company shall be governed and its affairs managed by a Board of Five (5) Directors, and JEROME B. WHEELER, WALTER HOWE, JOHN SLOANE, GORDON NORRIE and WILLIAM HENRY REESE shall constitute such Board of Directors for the first year of its existence.

amendment or amendments thereto or otherwise, of, in, and to the corporate franchise to survey, locate, construct, maintain, use and operate the railway and telegraph line, hereinbefore particularly described, namely:

First Mortgage
A. S. L. Ry. Co.

From a point on the Colorado Midland Railway in section twenty-two (22), township ten (10) south, range eighty (80) west of the sixth principal meridian, in the County of Lake, State of Colorado, near the railway station known as Crystal Lake station, thence in a northwesterly direction, by the most feasible route, to a point or points on said Colorado Midland Railway, in section twenty (20), township nine (9) south, range eighty (80) west of the sixth principal meridian, in said County of Lake.

Together with its said railways and lines of railway, located and to be located, between said points, and now constructed, or in contemplation, or in process of construction, and hereafter to be completed, and all its right, title and interest in and to the line of telegraph between said points, being in all, six and one-half ($6\frac{1}{2}$) miles of railway, more or less, and all the rolling stock and equipment of whatever nature or kind, owned and hereafter to be owned by the Railway Company, for the purpose of operating said railway and telegraph line above particularly described or purchased with the proceeds of said bonds; and also all the lands, tenements and hereditaments acquired or appropriated, or which may hereafter be acquired or appropriated for the purpose of right of way for said railway above described, and all the easements or appurtenances thereunto belonging, or in any way appertaining, and all railways, ways and rights of ways, depot grounds, tracks, bridges, viaducts, culverts, fences and other structures; engine-houses, freight-houses, car-houses, wood-houses, warehouses, machine-shops, work-shops, superstructures and erections, whether now in existence, or hereafter at any time acquired for the use of, or in connection with said railway above described, also all rails, ties, chairs, machinery, tools, implements, fuel and material whatsoever, for or in respect of the constructing or replacing of said railway and telegraph line above described, or any part thereof,

scribed in and whose name is subscribed to the foregoing Certificate of Incorporation, and each for himself acknowledged that he signed and sealed the same as his free and voluntary act, for the uses and purposes therein set forth.

WITNESS, my hand and Notarial Seal this 14th day of November, A.D. 1888.

LEWIS B. JOHNSON,

[SEAL]

Notary Public.

My commission expires Nov. 12, 1891.

Indorsement of
Sec'y of State as
to filing and recording
of foregoing articles.

(INDORSED.)

CERTIFICATE OF INCORPORATION

OF

THE ASPEN SHORT LINE RAILWAY COMPANY.

DOMESTIC.

FILED in the office of the Secretary of State, of the State of Colorado, on the 15 day of Nov. A.D. 1888, at 3.45 o'clock, P.M.

Recorded in Book 17 Page 459.

JAMES RICE,

Secretary of State.

FIRST MORTGAGE

OF

THE ASPEN SHORT LINE RAILWAY COMPANY.

THIS INDENTURE, made and entered into this first Jan. 1, 1889.
day of January, in the year one thousand, eight hundred
and eighty-nine, by and between THE ASPEN SHORT LINE Parties.
RAILWAY COMPANY, hereinafter termed "The Railway
Company," a corporation duly organized and existing under
and by virtue of the laws of the State of Colorado, party of
the first part, and B. AYMAR SANDS and CHARLES H.
WOODRUFF, of New York City, hereinafter termed "the
Trustees," or "the said Trustees," parties of the second
part, WITNESSETH, that

WHEREAS, The Railway Company has, under and by Authorized line.
virtue of the laws of the State of Colorado and of its cer-
tificate of incorporation, become entitled to survey, locate,
construct, maintain and operate a railway and telegraph
line from a point on the Colorado Midland Railway in sec-
tion twenty-two (22), township ten (10) south, range
eighty (80) west of the sixth principal meridian, in the
County of Lake, State of Colorado, near the railway station
known as Crystal Lake station, thence in a northwesterly
direction, by the most feasible route to a point or points
on said Colorado Midland Railway, in section twenty (20),
township nine (9) south, range eighty (80) west of the
sixth principal meridian, in said County of Lake, with
necessary side tracks and other appurtenances of a railway;
and

WHEREAS, The Railway Company has, in pursuance of Construction of
road and desire
to borrow money
to pay for same.
the authority to it granted, as aforesaid, constructed, and
is now operating, or prepared to operate its said railway,
the same being six and one-half (6½) miles of main track,

First Mortgage
A. S. L. Ry. Co.

more or less, and desires to borrow money for the purpose of paying for the construction of said railway and its appurtenances, and providing for the completion and maintenance of the same; and

Meeting of
stockholders.

WHEREAS, At a meeting of the Stockholders of the Railway Company, called for such purpose, and duly held at the city of Colorado Springs, Colorado, on the first day of April, A.D. 1889, at which meeting all of the stockholders of the Railway Company were present in person, or represented by proxy, the following preamble and resolutions were unanimously adopted:

Preamble and
resolutions of
stockholders
authorizing issue
of \$110,000 of bonds
and execution of
mortgage to secure
same.

WHEREAS, This Company is authorized by its certificate of incorporation to locate, construct, operate and maintain a railway and telegraph line from a point on the Colorado Midland Railway, in section twenty-two (22), township ten (10) south, range eighty (80) west of the sixth principal meridian, in the County of Lake, State of Colorado, near the railway station known as Crystal Lake station, thence in a northwesterly direction, by the most feasible route to a point or points on said Colorado Midland Railway, in section twenty (20), township nine (9) south, range eighty (80) west of the sixth principal meridian, in said County of Lake, with necessary side tracks and other appurtenances of a railway; and

WHEREAS, Said Railway Company has located and nearly completed the construction of its said railway and the appurtenances thereto;

Now, THEREFORE, be it *Resolved*, That in order to provide the means required for the purposes above set forth and generally to improve the condition of the Company's property along its line, and to procure therefor the necessary and usual appurtenances and facilities of railways and telegraph lines, the President and Secretary be, and they are hereby authorized to execute, under the corporate seal, mortgage bonds of the Company to the amount of one hundred and ten thousand dollars (\$110,000.00), such bonds to be in the form of coupon bonds, to be for the sum of one thousand dollars (\$1,000.00) each, to mature thirty (30) years from the first day of January, 1889, with the right,

however, reserved to the Company, its successors, assigns or lessees, to redeem or purchase such bonds or any number thereof, at par, upon any day, after one year from the date of said bonds, upon which interest upon said bonds shall fall due, such redemption to be made in the manner and under the conditions contained in the mortgage or deed of trust by which such bonds shall be secured; said bonds to bear interest at the rate of eight (8) per cent. per annum, payable in semi-annual coupons, maturing on the first day of July and the first day of January in each year, and to be payable, principal and interest, in the city of New York, in gold coin of the United States, of, or equal to, the present standard; and be it also

First Mortgage
A. S. L. Ry. Co.

Resolved, That for the purpose of securing the payment of said bonds in accordance with the terms thereof, the President and Secretary of this Company be, and they hereby are authorized to execute, under the corporate seal of the Company, in such form as may be advised by counsel, and to deliver a Mortgage or Deed of Trust, covering and conveying all the right, title, interest, claim or demand which the Railway Company now has, or hereafter may acquire, in and to the corporate franchise to survey, locate, construct, maintain, use and operate the said railway and said telegraph line above described, viz.: From a point on the Colorado Midland Railway, in section twenty-two (22), township ten (10) south, range eighty (80) west of the sixth principal meridian, in the County of Lake and State of Colorado, near the railway station known as Crystal Lake station, thence in a northwesterly direction, by the most feasible route, to a point or points on said Colorado Midland Railway in section twenty (20), township nine (9) south, range eighty (80) west of the sixth principal meridian, in said County of Lake, with necessary side tracks and other appurtenances of a railway and telegraph line, including also all the rolling stock, rails, ties, timber, furniture, fuel and other materials, supplies or personal property of every nature whatsoever, now owned by this Company or which may hereafter be acquired by it, for or in respect of the construction, maintenance or

**First Mortgage
A. S. L. Ry. Co.**

operation of said railway and said telegraph line, or which may be purchased or acquired with money arising from the sale of bonds to be secured by such Mortgage or Deed of Trust; that the president of this Company be, and he hereby is, empowered to select a Trustee or Trustees under such Mortgage or Deed of Trust to be executed as aforesaid, and to agree with such Trustee or Trustees, as to the terms and conditions upon which said bonds may be purchased or redeemed as aforesaid, and that in other respects said bonds and said Mortgage or Deed of Trust shall be of such form and to such effect as the President of this Company shall determine and approve; and

**Adoption of foregoing
resolutions.**

WHEREAS, Resolutions to the same effect, and authorizing the execution and delivery of such bonds and Mortgage or Deed of Trust, as aforesaid, have been duly passed and adopted by the Board of Directors of the Railway Company; and

**Proposed issue of
bonds and making
of mortgage.**

WHEREAS, In pursuance of said resolutions, and of the authority in it vested by the laws of the State of Colorado, the Railway Company has determined to issue said bonds, and to secure the payment of the same, principal and interest, by this Mortgage or Deed of Trust, such bonds to stand equally and ratably secured hereby, without any preference whatever, arising from the time of issuing or otherwise, and in the manner and on the conditions herein provided, and each of said bonds to be executed by and under the seal of the Railway Company, signed and attested by its President and Secretary, and the interest coupons to be authenticated by and with the name of its Treasurer; and each of said bonds being so signed, sealed, executed and authenticated to be countersigned by the Trustee, which countersigning or certifying shall be conclusive, and the only conclusive evidence that such bond is secured by this indenture; and

Form of bond.

WHEREAS, the President of the Railway Company has determined, as authorized by said resolutions, that said bonds shall be substantially in the following form:

Total authorized issue \$110,000.00 **First Mortgage**
A. S. L. Ry. Co.

UNITED STATES OF AMERICA.

STATE OF COLORADO.

Form of bond.

THE ASPEN SHORT LINE RAILWAY
 COMPANY.

No. \$1,000

FIRST MORTGAGE, EIGHT PER CENT., THIRTY YEARS,
 GOLD BOND.

For value received, The Aspen Short Line Railway Company, a corporation of the State of Colorado, promises to pay to the bearer of this bond, or if registered, to the registered owner thereof, at its agency, in the City of New York, on or before the first day of January, nineteen hundred and nineteen, one thousand dollars, in gold coin of the United States, of, or equal to, the present standard, with interest thereon in like gold coin, at the rate of eight per cent. per annum, payable at said agency, semi-annually, on the first days of January and July of each year, upon presentation and surrender of the annexed interest coupons.

IT IS AGREED, HOWEVER, by the holder of this bond that the said Railway Company, its successors, assigns or lessees shall have the right, upon any interest day after one year from the date hereof, to redeem or purchase this bond at par, in the manner provided in the mortgage or Deed of Trust securing the same. This bond is one of a series of mortgaged bonds, each of the denomination of one thousand dollars, numbered consecutively from one (1) to one hundred and ten (110) inclusive. The holder hereof is entitled to the security of a mortgage or Deed of Trust dated January first, 1889, executed by the said Railway Company to B. Aymar Sands and Charles H. Woodruff of New York, as Trustees, duly recorded in the office of the County Clerk and Recorder of Lake County, Colorado, and conveying to said Trustees all of the railway property and franchises of said Railway Company as specified in said mortgage or Deed of Trust.

First Mortgage
A. S. L. Ry. Co.
Form of bond.

The aggregate issue and certification of bonds under said mortgage or Deed of Trust is limited, as provided therein, to one hundred and ten thousand dollars. If default shall be made in the payment of any semi-annual instalment of interest, when the same shall become due and be demanded, and such default shall continue for three months after such demand, the principle of this bond shall become due and payable in the manner provided in said mortgage or Deed of Trust.

Said Railway Company and all of its property is liable to pay this bond; but stockholders are not individually liable thereon, nor in respect thereto. Said Railway Company hereby waives the benefit of any extension, stay or appraisement laws now existing, or that may hereafter exist.

This bond shall pass by delivery, unless registered, and if registered, by transfer on the books of said Railway Company, at its agency in the City of New York. If registered, no transfer except on said books shall be valid, unless the last transfer shall have been to bearer, which shall restore transferability by delivery; but this bond shall continue subject to successive registrations and transfers to a party named, or to bearer, as aforesaid, at the option of each holder. This bond shall not become obligatory upon said Railway Company until the certificate endorsed hereon shall be signed by said Trustees.

IN WITNESS WHEREOF, the said The Aspen Short Line Railway Company has caused its corporate seal to be affixed hereto, and the same to be subscribed by its President and attested by its Secretary, this first day of January, 1889, and the annexed interest coupons to be executed with the engraved signature of its Treasurer.

THE ASPEN SHORT LINE RAILWAY COMPANY.

By

President.

Attest:

Secretary.

[FORM OF EACH INTEREST COUPON.]

First Mortgage
A. S. L. Ry. Co.

\$40.00.

No.

The Aspen Short Line Railway Company will pay the bearer, at its fiscal agency, in the city of New York, forty dollars, in gold coin of the United States of America, on the first day of , being six months' interest on this bond.

Treasurer.

[FORM OF TRUSTEE'S CERTIFICATE ENDORSED ON EACH BOND.]

B. Aymer Sands and Charles H. Woodruff, of New York, hereby certify that the within bond is one of the bonds issued in conformity with, and described in, the mortgage or Deed of Trust first mentioned within.

AND WHEREAS, It is further agreed by the Railway Company, as a covenant and condition of this mortgage or Deed of Trust, and of the certification and issue of said bonds to it by the Trustees, that all and singular of said bonds so to be certified and issued, shall be faithfully applied to the legitimate expenses and cost of the location, construction, improvement and maintenance of its said railway and said telegraph line above described, namely:

Purposes to which
the bonds may be
applied.

From a point on the Colorado Midland Railway in section twenty-two (22), township ten (10) south, range eighty (80) west of the sixth principal meridian, in the County of Lake, State of Colorado, near the railway station known as Crystal Lake station, thence in a northwesterly direction, by the most feasible route to a point or points on said Colorado Midland Railway, in section twenty (20), township nine (9) south, range eighty (80) west of the sixth principal meridian, in said County of Lake, or spurs therefrom or connections therewith, and to the procuring of equipment therefor, and to the other legitimate and necessary expenses incurred in connection with or in consequence of, the survey, location, construction, maintenance or operation of said railway above described, or of such

First Mortgage
A. S. L. Ry. Co.

Manner of application
by Ry. Co. for certifi-
cation of bonds.

spurs or connections, and shall be certified by the Trustees, and delivered to the Railway Company or upon its order. But it is expressly agreed, for the guidance and protection of the Trustees in the certification and delivery of bonds hereunder, that bonds shall be certified by the Trustees and delivered to the Railway Company, or upon its order, only upon the written application of the Railway Company, expressed through a resolution of its Board of Directors, adopted at a regular meeting, or at a special meeting called for that purpose, wherein it shall be stated what amount of bonds are required at that time, and the purpose for which the same are required, and which resolution, duly certified by the Secretary or Assistant Secretary of the Railway Company, and under its corporate seal, shall be full authority and protection to the Trustees in certifying and delivering said bonds; and no duty is imposed upon the Trustees to look behind such resolution before certifying said bonds and delivering the same. No bond to be issued under the provisions of this mortgage or Deed of Trust by the Railway Company, shall be obligatory upon it, until the Trustees shall duly sign a certificate endorsed thereon, substantially in the form hereinbefore described.

Granting clause.

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Railway Company, party of the first part, in consideration of the premises, and of one dollar to it in hand paid by the said Trustees, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the punctual payment of the principal and interest of the bonds aforesaid, to be issued, as hereinbefore mentioned, hath granted, bargained, sold, assigned, transferred, set over, released, conveyed and confirmed, and by these presents does grant, bargain, sell, assign, transfer, set over, release, convey and confirm unto the Trustees, parties of the second part, and to their successor or successors in trust herein, all the right, title, interest and claim or demand whatsoever, which the Railway Company now has, or is entitled to, or which it shall or may at any time hereafter acquire, by or on account of its certificate of incorporation, or any

Description of
property mortgaged.

amendment or amendments thereto or otherwise, of, in, and to the corporate franchise to survey, locate, construct, maintain, use and operate the railway and telegraph line, hereinbefore particularly described, namely:

First Mortgage
A. S. L. Ry. Co.

From a point on the Colorado Midland Railway in section twenty-two (22), township ten (10) south, range eighty (80) west of the sixth principal meridian, in the County of Lake, State of Colorado, near the railway station known as Crystal Lake station, thence in a northwesterly direction, by the most feasible route, to a point or points on said Colorado Midland Railway, in section twenty (20), township nine (9) south, range eighty (80) west of the sixth principal meridian, in said County of Lake.

Together with its said railways and lines of railway, located and to be located, between said points, and now constructed, or in contemplation, or in process of construction, and hereafter to be completed, and all its right, title and interest in and to the line of telegraph between said points, being in all, six and one-half ($6\frac{1}{2}$) miles of railway, more or less, and all the rolling stock and equipment of whatever nature or kind, owned and hereafter to be owned by the Railway Company, for the purpose of operating said railway and telegraph line above particularly described or purchased with the proceeds of said bonds; and also all the lands, tenements and hereditaments acquired or appropriated, or which may hereafter be acquired or appropriated for the purpose of right of way for said railway above described, and all the easements or appurtenances thereunto belonging, or in any way appertaining, and all railways, ways and rights of ways, depot grounds, tracks, bridges, viaducts, culverts, fences and other structures; engine-houses, freight-houses, car-houses, wood-houses, warehouses, machine-shops, work-shops, superstructures and erections, whether now in existence, or hereafter at any time acquired for the use of, or in connection with said railway above described, also all rails, ties, chairs, machinery, tools, implements, fuel and material whatsoever, for or in respect of the constructing or replacing of said railway and telegraph line above described, or any part thereof,

First Mortgage
A S. L. Ry. Co.

whether now held or owned, or hereafter to be acquired by the Railway Company, together, with all equipments and appurtenances whatsoever, thereunto belonging, whether now held or hereafter acquired; and all replacements and renewals and all franchises connected with or belonging to, said railway and telegraph line above described, or to the construction, maintenance or use thereof, now held or hereafter to be acquired by the Railway Company, and all corporate franchises of any nature, relating to said railway and telegraph line above described, which are now, or may hereafter be possessed or exercised by the Railway Company, together with all and singular the endowments, income advantages, tenements, hereditaments and appurtenances to the said above described railway and telegraph line belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, tolls, incomes, rents, profits and issues thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, present or prospective, of the Railway Company, in and to the said railway and telegraph line above described, and every part of the same, and every parcel thereof, with the appurtenances.

Habendum clause.

TO HAVE AND TO HOLD all and singular the above described premises, property, rights and franchises and appurtenances, to the Trustees, parties of the second part, their successor or successors in trust, to the only proper use and behoof of the Trustees, their successor or successors; it being, however, declared to be the true intent and meaning of these presents, that the Railway Company, party of the first part, shall and doth convey to the Trustees, parties of the second part, all and all manner of franchises, of every kind and description however derived, and all manner of real estate or interest therein, and all manner of personal property, of whatever nature or description the same may be, at the date of these presents owned or possessed by the Railway Company, or which may, at any time hereafter, during the continuance of this trust, be acquired by the Railway Company, and which are a part

What intended
to be included in
this mortgage.

of, or belong to or are necessary to the construction and maintenance of its said railway and said telegraph line, including also any and all railway line or railroad constructed with the proceeds of the bonds secured hereby, and no more, the same being six and one-half miles of railway, more or less, and it being distinctly understood and agreed that the lien of this Deed of Trust shall extend to and cover only its said railway and telegraph line above particularly described, and shall not in any manner affect or become a lien upon any other line or portion of line, of railway or telegraph which the Railway Company may hereafter construct, or in any manner acquire; *in trust, nevertheless*, for the uses and purposes herein declared and expressed as follows, to-wit:

First Mortgage
A. S. L. Ry. Co.

Mortgage not
to cover any lines
hereafter constructed
or acquired.

First — To secure the payment of the bonds of the Railway Company, to be issued as hereinbefore recited, and for the equal *pro rata* benefit of all and every of the persons who, or corporations which, shall at any time be or become the holders of said bonds, subject to the terms, provisions, covenants and stipulations in said bonds contained, without any preference or priority of any one bond over another, by reason of priority in time of the issuance or negotiation thereof, or otherwise.

All bonds equally
secured.

Second — Until by the express condition of this indenture, the right of entry shall accrue to the Trustees, the Railway Company, its successors or assigns, shall be permitted to possess, manage, use and enjoy, all and singular, the said property, including the said railway or railways, with their appurtenances, equipment, and their said franchises, and to take and use the rents, incomes, profits, tolls, and issues thereof, in the same manner and with the same effect as if this indenture had not been made.

Possession of
mortgagor until
default.

Third — And the Railway Company, in consideration of the premises, covenants, promises and agrees.

Covenants of Ry. Co.

That having possession as aforesaid, it will well and truly pay and discharge, or cause to be paid and discharged, each and every tax and assessment, or other liability and governmental charge, which may, from time to time, be lawfully levied or imposed, by competent authority, upon

First Mortgage
A. S. L. Ry. Co.

the said railway property, premises, or upon any part thereof, the lien whereof might or could be held to be superior to the lien of this indenture, so that the priority of this indenture shall, at all times, be duly maintained and preserved, and will at all times keep insured, in good, safe and reliable insurance companies, its rolling stock, tools and machinery, buildings, bridges and other structures, erected or to be erected by it, or on its said premises, and all other such property, provided for use and used by it, in connection with the railway or telegraph line herein described and hereby conveyed, as is usually insured by railway companies, and in the same manner and to the same extent; and will at all times diligently preserve all the rights and franchises to it granted and upon it conferred by the laws of the State of Colorado; and will at all times, maintain, preserve and keep, all and singular, the said railway and said telegraph line above described, and every part thereof, with the rolling stock, fixtures and appurtenances, and every part and parcel thereof, in good repair, working order, and condition and fully supplied with motive power, rolling stock and equipment; and shall and will, from time to time, make all needful and proper repairs, renewals and replacements, useful alterations, additions and improvements, so that the traffic and business of said railway and telegraph line, and of every part thereof, shall at all times be done with safety and expedition.

On default continued
for certain periods,
Trustee may enter and
take possession.

Fourth — In case default shall be made by the Railway Company in the payment of the principal of, or of any interest on, any of the bonds secured by this indenture, according to the tenor and effect of such bonds and the coupons thereto annexed, and if such default shall continue for the period of three months after payment of the same shall have been duly demanded, in writing, of the Railway Company, or at its said fiscal agency in the City of New York, or in case default shall be made by the Railway Company in the payment of any taxes, assessment or other governmental charge, lawfully levied and imposed upon the said railway property and premises, or any part thereof,

and such default shall continue for the period of six months after such taxes, assessment or governmental charge shall become due and payable; or in case default shall be made by the Railway Company in keeping insured its rolling stock, tools and machinery, buildings, bridges and other structures, as aforesaid, and such default shall continue for a period of three months after demand of performance by the Trustees herein; or in case default shall be made by the Railway Company in the due observance of any other of its covenants, promises or agreements herein required to be done, performed or kept by it, and such default shall continue for the period of six months after demand of performance by the Trustees herein, then, and in each and every such case of default, continued as aforesaid, the said Trustees, if they shall elect so to do, may, and if requested in writing by the holders of one-half of the bonds secured hereby and outstanding at the time of such default, shall, by their attorney or attorneys, agent or agents, enter into and upon, all and singular, the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, and each and every part thereof, excluding therefrom the Railway Company, its agents, servants and employees, and have and hold the same; use, operate, manage and control, said railway; regulate tolls and the transportation of passengers and freight thereon; and make, from time to time, at the expense of the trust estate, all repairs and replacements and such useful alterations, additions and improvements thereto, as well in respect to the rolling stock or equipment as to the railway and its appurtenances, and conduct the business thereof by their attorneys, agents, superintendents or managers, as may seem to them judicious and for the best interests, as well of the public as of the holders of said bonds; and upon such entry, it shall be lawful for the Trustees, their agents or attorneys, from time to time, to insure or keep insured, at the expense of the trust estate, the rolling stock, tools and machinery, buildings, bridges and other structures erected and provided for use in connection with said railway, whereof it shall become pos-

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sessed, in the same manner and to the same extent as the Railway Company might have done; and to collect and receive all tolls, freights or incomes, rents, issues and profits of the same, and every part thereof; and after deducting the expense of operating said railway and conducting the business thereof, and all repairs, replacements, alterations and additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and other proper charges upon the said premises and property, or any part thereof, as well as a just and reasonable compensation for their own services and the services of all attorneys, agents, clerks, servants and other employees by them properly engaged or employed, to apply the moneys, arising as aforesaid, to the payment of the interest in arrear, if any, or which shall, after such entry, become due and payable, on the outstanding bonds secured hereby, in the order in which such interest shall become due, ratably, to the person or persons holding the coupons therefor, without any discrimination or preference between them on account of the date or dates of the maturing of said bonds, or the times of the actual issue thereof, and according to the rate in said bond provided; and if, after paying all such interest, a surplus shall remain, such surplus shall be applied to the satisfaction of the principal of said bonds, at the time due and unpaid, ratably, without discrimination or preference, as aforesaid.

Power of sale
on default.

Fifth—In case default shall be made by the Railway Company in the payment of the principal of, or of any interest upon, any of said bonds as aforesaid, and such default shall continue for the period of three months after demand in writing made for payment, as aforesaid, it shall be lawful for the said Trustees after entry as aforesaid, or other entry, or without entry, by their attorney or attorneys, agent or agents, to sell and dispose of all and singular the railway property and premises, rights, interests and franchises hereby conveyed or mortgaged, or intended so to be, or from time to time, as it shall deem proper, of so much thereof as may be sold separately without material injury to the parties interested, and be sufficient to pay the

est day upon which the Railway Company, its successor, assigns or lessee shall have elected to redeem such bonds, it or they shall deposit with the Trustees, or either of them, or in such depository as the Trustees may designate, the amount of money necessary to purchase or redeem the principal of the number of bonds in said written notice specified, with interest due thereon up to the then next interest day, all interest upon said bonds thereafter shall cease and all coupons attached thereto be delivered up.

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Eighteenth— If the Railway Company shall well and truly pay, or cause to be paid, all the bonds to be issued hereunder, or entitled to the protection of this indenture, and the coupons thereto attached, at the times and in the manner therein specified, or shall exercise its right to redeem the same as aforesaid, and shall well and truly keep and perform the covenants and undertakings herein and hereby required to be kept and performed by it, according to the true intent and meaning of this indenture, then, and in that case, all property, rights and interests, hereby conveyed, shall revert to the Railway Company, and the estate, right, title and interest of the said Trustees and each of them aforesaid, their successor or successors, shall thereupon cease, determine and become void; otherwise, the same shall be, continue and remain in full force and virtue.

Defeasance clause.

IN WITNESS WHEREOF, the said, The Aspen Short Line Railway Company, the party of the first part, has caused these presents to be executed, on its behalf by its President, and its corporate seal, attested by its Secretary, to be hereunto affixed, and the said B. Aymar Sands and Charles H. Woodruff of New York, the parties of the second part, in evidence of their acceptance of the trust hereby created, have likewise signed these presents and affixed their seals hereto.

Attesting clause.

THE ASPEN SHORT LINE RAILWAY COMPANY.

By J. B. WHEELER,
President.

[THE ASPEN SHORT
LINE RAILWAY CO.
SEAL]

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have been made or incurred by the Trustees, in operating said railway, or in maintaining the same, or in managing its business while in possession thereof, and all payments which may have been made by them for taxes or assessments, or other proper charges upon the said railway property and premises, rights, interests and franchises, or any part thereof, including their own reasonable compensation for their services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be, at the time, outstanding and unpaid, whether the same shall or shall not have previously become due, and of the interest which shall have accrued, at that time, on the said principal, and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principal and such accrued and unpaid interest; and if, after satisfaction thereof, as aforesaid, a surplus shall remain, shall pay the same over to the Railway Company, its successors or assigns.

**On default continued
for three months,
Trustees may, and
must on written
request of holders
of one-half of bonds,
apply for appointment
of receiver.**

Sixth — In case default shall be made by the Railway Company in the payment of the principal or of any interest upon any of said bonds, as aforesaid, and such default shall continue for the period of three months after demand in writing made for payment, as aforesaid, then the said Trustees, if they shall elect so to do, may, and if requested in writing by the holders of one-half of the bonds secured hereby and then outstanding shall (upon being properly indemnified) apply to any Court having proper jurisdiction in the premises, for the foreclosure and sale of the mortgaged premises and property, rights, interests and franchises, and for the appointment in the meantime of a Receiver of the same, under this indenture, or (as an alternative of entry in that behalf, hereinbefore given) for the appointment of a Receiver, without applying for a foreclosure or sale of the mortgaged premises; and, in either case, the Trustees shall have the right to nominate to the Court the person to be appointed Receiver.

Seventh — In case default shall be made by the Railway Company in the payment of any interest upon any of said bonds, hereby secured, according to the tenor and effect of

such bonds and of the coupons thereto annexed, and such default shall continue for the period of three months after demand in writing made for payment, as aforesaid, then, and in such case of default, continued as aforesaid, the principal of all the bonds secured hereby, shall, in case a majority in interest of the holders of said bonds, in writing and under seal, so elect, become and be immediately due and payable, anything herein, or in said bonds, contained, to the contrary notwithstanding. A majority of the holders of said bonds may, in writing, under their hands and seals, declare, or instruct the trustees to declare, the said principal to be due, as aforesaid, or waive, or instruct the Trustees to waive, the right so to declare the principal due by reason of such default or defaults, upon such terms and conditions as such majority shall deem proper; *Provided*, that no such action of the said bondholders, or of the trustees, shall extend to, or be taken to affect, any subsequent default, or to impair the rights resulting therefrom.

Eighth—The Railway Company hereby covenants and agrees, to and with the said Trustees, on behalf and for the benefit of the holders of the bonds secured hereby, that it will, from time to time, and at all times, upon reasonable request, make, execute, acknowledge and deliver, at its own expense, all such further acts, deeds, conveyances, and assurances in law for the better assuring unto the Trustees, and their successor or successors in the trust hereby created, upon the trusts and for the purposes herein expressed or intended, all and singular the property, premises, railway equipment and appurtenances, rights, interests and franchises hereby mortgaged or conveyed in trust, or intended or purported so to be, whether now owned or possessed by or vested in the Railway Company, or that may be subsequently acquired or vested in it, as by the Trustees or their counsel learned in the law, shall be reasonably devised, advised or acquired; and the Railway Company shall furnish to the Trustees from time to time and at all times, upon their reasonable request in writing a full and true inventory of all the movable property apper-

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On default in
payment of
interest continued
for three months,
principal shall
become due on
written election
of majority in
interest of
bondholders.

Covenant of further
assurance.

Ry. Co. to furnish
inventory of personal
property on request
of Trustees.

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taining to said line of railway, hereinbefore described and hereby conveyed, and to the operation thereof, and which is transferred or intended to be transferred by this indenture; but no failure to demand or furnish such inventory shall impair or affect the operation of this indenture, upon any property herein agreed or intended to be transferred.

**Provision for
voluntary surrender
by Ry. Co. to Trustees
without default.**

Ninth — The Railway Company may, at any time hereafter, before the full payment of said bonds, and whenever it shall deem it expedient for the better security of said bonds, although such default may not have occurred as to entitle the Trustees to enter into possession of the whole or any part of the said railway property, surrender and deliver into the possession of the Trustees the whole or any part of the said railway property and premises, rolling stock, lands and appurtenances, rights, interests and franchises, hereby conveyed or intended so to be, for any term or terms, certain or indefinite. The Trustees, upon such surrender and delivery, may, at their option, enter into and upon the premises so surrendered and delivered, and take and receive possession thereof for such term or terms, certain or indefinite, as aforesaid, without prejudicing, however, their right, at any subsequent time, to insist upon and maintain such possession, though beyond such term, whenever they would have been entitled thereto by the terms of this indenture, had no surrender been made; and upon the voluntary surrender and delivery of the said railway property and premises or any part thereof as aforesaid, the Trustees shall and will, during the term or terms for which possession shall be taken, and while said property and premises shall remain in their possession, receive the income and revenues thereof, and work, use manage and employ the same in such lawful way as may be most beneficial, as well to the interests of the public as of the holders of said bonds, in accordance with the provisions of this indenture.

**Power of Trustees
to release real estate
on request of Ry. Co.**

Tenth — The Trustees shall have full power, in their discretion, upon the written request of the Railway Company, at any time when it shall not be in default in respect of any of the covenants of this indenture, to convey, by

way of release or otherwise, to the Railway Company, or to such other person or persons as it may designate, any lands acquired in any way, or held for sale, for the purposes of stations, depots, shops or other buildings, or for any purposes whatsoever; *Provided*, however, in each of such cases, that in the judgment of the Trustees, such lands shall not be necessary for the use of the Railway Company, and that the written request of the Railway Company shall be accompanied by the affidavit of the President or Chief Engineer stating that such lands are not needed for the purposes of the Railway Company, which affidavit shall be conclusive evidence to the Trustees of the truth of the statements therein contained; and also to convey, on like request and affidavit, any lands not occupied by track, or which may become disused by reason of change of location of station houses, shops or other buildings, as the Railway Company may deem expedient to disuse or abandon, and to consent to such change or to any other changes in the location of the track or depots or other buildings of the Railway Company, as, in their judgment, shall have become expedient, and to make and deliver the necessary conveyance or conveyances to carry the same into effect; and any lands which may be acquired for permanent use, in substitution or exchange for any so released, shall be conveyed to the Trustees upon the trusts of this indenture; and no property shall be released or conveyed by the Trustees which, in its judgment shall be essential and material to secure the holders of said bonds; and the Trustees shall have full power to permit the Railway Company from time to time to sell and dispose of any portion of the rolling stock, equipment, materials or machinery, theretofore acquired for the operation of the road and no longer necessary, or which may have become unfit for use, but upon the condition that the money realized from such sale shall be received by the Trustees or the property so sold be replaced by other property of the same character, which shall then become subject to the operation of this indenture, and which is hereby expressly conveyed to the Trustees, subject to such operation.

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Written request
of Ry. Co. to be
accompanied by
affidavit.

Any substituted
lands to be conveyed
to Trustees.

Power of Trustees to
permit sales of equip-
ment, materials and
machinery on replace-
ment by other property
of same character.

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Trustees may bid at
foreclosure sale.

Eleventh—It is hereby further agreed that at any public sale of the railway property, premises, rights, interests and franchises hereby conveyed, made by virtue of the powers herein granted, or by judicial authority, for the purpose of enforcing the lien of this indenture, the Trustee or Trustees thereunder, for the time being, may bid for, and if the same be attainable at the prices hereinafter mentioned, purchase and acquire the property so offered for sale, on behalf of the holders of the bonds, secured by this indenture, which shall then be outstanding, in proportion to the amount of said bonds, and of the overdue coupons thereunto belonging, by them respectively held; *Provided*, however, that nothing herein contained shall authorize said Trustee or Trustees to bid on behalf of the holders of said bonds and coupons, a sum exceeding the whole amount of said bonds then outstanding with the interest accrued thereon, according to the tenor thereof, and the cost and expenses of such sale, for the entire property then held upon the trusts of this indenture, or in amount reasonably proportioned thereto, for any part of the said property.

Compensation of
Trustees.

Twelfth—The Trustees shall receive reasonable compensation for the services rendered by them in the discharge of the duties hereby and hereunder imposed upon them.

Word "Trustees" to
include successors.

Thirteenth—The term or words, "the Trustees," "said Trustees" and "the said Trustees," as used in this indenture, shall be held and stated to mean the Trustee or Trustees for the time being. And it is mutually agreed that the said Trustees, or either of them, or any Trustee hereafter appointed, may, upon not less than ten (10) days' previous notice in writing, to be duly served upon said Trustee or Trustees, be removed by a vote of two-thirds in interest of the holders of said bonds, cast at any meeting of said bondholders duly convened for such purpose; such notice of removal to be attested by the hands and seals of the Chairman and Secretary of such meeting; such meeting to be called by the President or Secretary of the Railway Company, upon the request of the holders of not less than fifty thousand (\$50,000) dollars, par value, of said bonds,

Provision for
removal of Trustees
by bondholders.

and written notice of the time and place of holding the same to be served upon or mailed to each bondholder, at his last known address, not less than thirty (30) days prior to the time of the holding of such meeting.

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Fourteenth— And said Trustees, or either of them, or any Trustees hereafter appointed, may resign and be discharged of the trust created by this indenture, by giving notice in writing to the Railway Company, and to the bondholders by publication thereof at least six (6) times a week for four (4) successive weeks in a public newspaper published in the City of New York, New York; such resignation not to take effect until at least thirty (30) days after the last publication of such notice, and only upon the due execution of the conveyance or conveyances hereinafter required; and in case of the death, resignation, removal or other incapacity to act of either of said Trustees, or of any Trustee hereafter appointed, the vacancy thereby caused shall be filled as the remaining Trustee and the President of the Railway Company may agree, and in case of the failure of the remaining Trustee and the President of the Railway Company to so agree within thirty (30) days after the death, resignation or other happening whereby a vacancy in any Trusteeship hereunder is created, or in case of the death, resignation, removal or other incapacity to act of both of said Trustees, or of any two Trustees that may hereafter be appointed, it shall be the duty of the Railway Company, by its President or Secretary, to call a meeting of the holders of the bonds secured or intended to be secured hereby, by publishing a notice, at least six (6) times each week for four (4) successive weeks in a public newspaper published in the City of New York, New York; such meeting of the holders of said bonds to be held in the City of New York not less than ten (10) days after the last publication of said notice for the purpose of filling the vacancy or vacancies caused by the death, removal or other incapacity to act of such Trustee or Trustees; and a majority in interest of the holders of said bonds, so attending such meeting or legally represented thereat, shall be competent to elect a new Trustee and shall, at such meeting,

Manner of resignation
of Trustees.

Provisions for filling
vacancies in Trustees.

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Provisions as to
transfer of trust.

proceed to elect a suitable person or persons, or corporation, to act as Trustee or Trustees to fill such vacancy; and in case of the appointment of a new Trustee or Trustees by either of the methods aforesaid, the person or persons or corporation so selected to act as such Trustee or Trustees shall, upon acceptance in writing of such trust, while continuing to act as such Trustee or Trustees, have, possess and become vested with all the estate, trust, rights, powers and duties of said Trustees, parties of the second part, as described herein, and to the same extent as if he, they or it had been an original Trustee or original Trustees hereunder; and during any vacancy in any Trusteeship hereby created the remaining or surviving Trustee shall have power to execute this Trust as fully in all respects as though he was the sole Trustee hereunder, until such vacancy shall be filled. Upon the termination of any Trusteeship hereunder, as aforesaid, all the estate, right, title and interest hereunder, of the Trustee who shall have resigned, been removed or have become otherwise incapacitated, shall wholly cease and determine; but nevertheless, the Trustee or Trustees resigning or being removed as aforesaid, shall, upon the request in writing of the new Trustee or Trustees, execute and deliver to it, him or them, all such conveyances and other instruments as shall be fit and expedient, for the purpose of assuring to such new Trustee or Trustees the legal estate in the premises; *Provided*, the expenses of the preparation and execution of such instruments shall be defrayed by the Railway Company, or by the said new Trustee or Trustees, or other parties in interest; and, *Provided*, further, that nothing herein contained shall be so construed as to deprive any Trustee, or his or its representatives, of any right to receive such compensation or reimbursement as such Trustee is, or may be, justly entitled to, for any services actually rendered or expenses incurred, under this indenture; and in case of such election of a new Trustee or Trustees, as aforesaid, the Railway Company hereby covenants to make, execute and deliver such other or further instruments, deeds, indentures or assurances, as may be necessary to

enable the person or persons, or corporation, so elected, to execute and carry out the trusts hereby created and declared, as fully and perfectly in all respects, as he, they or it, could have executed and carried out the same if originally made the party of the second part to this indenture; and it is hereby declared and agreed that in case the President of the Railway Company and any remaining or surviving Trustee shall fail or omit to appoint a new Trustee to fill any vacancy as aforesaid, and in case the holders of said bonds shall also fail or omit to appoint a new Trustee or Trustees in the manner aforesaid within ninety (90) days after the incapacity of any Trustee shall occur, or within ninety (90) days after the resignation or removal of any Trustee, the President of the Railway Company shall thereupon become such Trustee, and shall serve as such, and shall be subject to all the duties and be vested with all the powers herein or hereby created, granted and conferred upon said party of the second part, until a majority in interest of the holders of the outstanding bonds shall elect a Trustee or Trustees, in the manner aforesaid. It is further expressly agreed that all covenants, stipulations, promises and undertakings herein contained, by or on behalf of the Railway Company, shall bind and be binding upon its successors or assigns, whether so expressed or not.

Fifteenth — The Trustee or Trustees shall not be answerable for the default or misconduct of any attorney, clerk, or agent appointed by them in pursuance hereof, if such attorney, clerk or agent be selected with reasonable care, nor for any error or mistake made by them or either of them in good faith, but only for gross negligence or wilful default in the discharge of their duties as such trustees. The Trustees shall not be individually liable for any debts contracted or any liabilities incurred by them, nor for any damage to persons or property carried or injured, nor for salaries or non-fulfilments of contracts during any period in which the Trustee or Trustees shall manage the trust property, upon entry or voluntary surrender as aforesaid, but all such debts and liabilities shall be and constitute a first charge upon the trust funds and property.

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A. S. L. Ry. Co.

On failure to appoint
new trustee, President
of Ry. Co. shall act
temporarily as
Trustee.

Covenants binding
on successors and
assigns of Ry. Co.

Limitation of liability
of Trustees.

First Mortgage
A. S. L. Ry. Co.

Whole issue of bonds
to be delivered to
Trustees.

Any and all the
bonds to be redeem-
able at par on any
interest day after one
year.

Provision for drawing
bonds for redemption
by lot.

Sixteenth — It is further agreed that the whole issue of said bonds, to be secured hereby, shall immediately, upon the execution of the same by the Railway Company, as aforesaid, be delivered to the Trustees for certification, from time to time, pursuant to the provisions hereof.

Seventeenth — It is further agreed that the Railway Company, its successors, assigns or lessees shall have the right to purchase or redeem the entire issue of the bonds secured hereby, or any number of the same, at the par value thereof, upon any day occurring more than one year after the date of said bonds, upon which interest thereon is payable and upon giving notice in writing of its or their election so to do, to said Trustees, their successor or successors in trust, at least five (5) months prior to the interest day upon which it is proposed to make such purchase or redemption; such notice shall be addressed to said Trustees, their successor or successors, and shall state the number of said bonds which the Railway Company, its successor, assigns or lessee desires to purchase or redeem on the then next interest day; and in case the number of bonds which it is stated in said notice are to be so purchased or redeemed is less than the entire number of said bonds at that time outstanding, then in order to determine which of said bonds shall be purchased or redeemed on the then next interest day, the Trustee, or Trustees, shall draw by lot, on some day after receiving such written notice, and at least thirty (30) days prior to the then next interest day, from the whole number of bonds then outstanding, the number so desired to be purchased or redeemed.

After such drawing, notice of the result thereof, designating the particular bonds that have been so drawn, shall be given by the Trustees by publication in some newspaper published in the City of New York, New York, for at least ten (10) consecutive days, not including Sundays, which publication shall be commenced at least twenty (20) days prior to the then next interest day, and the bonds so drawn shall be purchased or redeemed on such interest day. Such redemption or purchase shall be made at the office of the Trustees, or one of them, and if, on or before the inter-

est day upon which the Railway Company, its successor, assigns or lessee shall have elected to redeem such bonds, it or they shall deposit with the Trustees, or either of them, or in such depository as the Trustees may designate, the amount of money necessary to purchase or redeem the principal of the number of bonds in said written notice specified, with interest due thereon up to the then next interest day, all interest upon said bonds thereafter shall cease and all coupons attached thereto be delivered up.

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Eighteenth—If the Railway Company shall well and truly pay, or cause to be paid, all the bonds to be issued hereunder, or entitled to the protection of this indenture, and the coupons thereto attached, at the times and in the manner therein specified, or shall exercise its right to redeem the same as aforesaid, and shall well and truly keep and perform the covenants and undertakings herein and hereby required to be kept and performed by it, according to the true intent and meaning of this indenture, then, and in that case, all property, rights and interests, hereby conveyed, shall revert to the Railway Company, and the estate, right, title and interest of the said Trustees and each of them aforesaid, their successor or successors, shall thereupon cease, determine and become void; otherwise, the same shall be, continue and remain in full force and virtue.

Defeasance clause.

IN WITNESS WHEREOF, the said, The Aspen Short Line Railway Company, the party of the first part, has caused these presents to be executed, on its behalf by its President, and its corporate seal, attested by its Secretary, to be hereunto affixed, and the said B. Aymar Sands and Charles H. Woodruff of New York, the parties of the second part, in evidence of their acceptance of the trust hereby created, have likewise signed these presents and affixed their seals hereto.

Attesting clause.

THE ASPEN SHORT LINE RAILWAY COMPANY.

By J. B. WHEELER,

President.

[THE ASPEN SHORT
LINE RAILWAY CO.

SEAL]

The C. M. Ry. Co.

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First Mortgage
A. S. L. Ry. Co.

Attest:

WM. HENRY REESE,
Secretary.

B. AYMAR SANDS, [SEAL]
Trustee.
CHAS. H. WOODRUFF, [SEAL]
Trustee.

Acknowledgment
of Ry. Co.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

On this Twelfth day of April 1889, before me, George A. Pease, a Commissioner of Deeds for the State of Colorado, within and for the State of New York, residing in the City of Brooklyn, in the County of Kings and State of New York, personally appeared Jerome B. Wheeler and William Henry Reese, each to me personally known and known to me as respectively the President and Secretary of the said The Aspen Short Line Railway Company, and each acknowledged that he executed the foregoing instrument in his respective capacity of President and Secretary of the said The Aspen Short Line Railway Company, as the free and voluntary act of the said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

Affidavit as to
corporate seal.

And the said Jerome B. Wheeler and William Henry Reese, being each by me duly sworn, did depose and say, each for himself, that the seal affixed to the foregoing instrument is the corporate seal of the said The Aspen Short Line Railway Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above mentioned.

GEORGE A. PEASE,
[COMMISSIONER'S SEAL] *Commissioner.*

My commission expires in Dec. 1891.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.

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A. S. L. Ry. Co.

Acknowledgment
of Trustees.

On this Thirteenth day of April 1889, before me George A. Pease a Commissioner of Deeds for the State of Colorado, within and for the State of New York, residing in the City of Brooklyn, in the County of Kings and State of New York, personally appeared B. Aymar Sands and Charles H. Woodruff, each to me personally known as the persons whose names are subscribed to the foregoing instrument, and each acknowledged that he executed the same as his free and voluntary act for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above mentioned.

GEORGE A. PEASE,
[COMMISSIONER'S SEAL] *Commissioner.*

STATE OF COLORADO, }
COUNTY OF LAKE, } ss.

Certificate of
recording of
foregoing mortgage
in Lake County.

I hereby certify that this instrument was filed for record in my office at 8.30 o'clock A.M., April 22, 1889, and is duly recorded in Book 119 at page 248 and pages following.

EDWARD DALE,
Recorder.
By R. F. CAFFREY,
Deputy.

LEASE
OF THE RAILROAD AND PROPERTY OF
THE ASPEN SHORT LINE RAILWAY COMPANY
TO
**THE COLORADO MIDLAND RAILWAY COM-
PANY.**

April 1, 1889.

Parties.

THIS INDENTURE, Made and entered into this first day of April in the year of our Lord One Thousand eight hundred and eighty-nine, by and between THE ASPEN SHORT LINE RAILWAY COMPANY,— party of the first part, and—THE COLORADO MIDLAND RAILWAY COMPANY,— party of the second part, each of said parties being a corporation organized and existing under and by virtue of the laws of the State of Colorado,
WITNESSETH :—

Line of A. S. L.
in process of
construction.

THAT WHEREAS, The party of the first part is now engaged in the construction of a railway extending from a point on the Colorado Midland Railway, in Section twenty-two (22), Township Ten (10) South, Range eighty (80) West of the Sixth Principal Meridian, in the County of Lake and State of Colorado, near the railway station known as Crystal Lake Station, running thence in a North-westerly direction to a point or points on said Colorado Midland Railway in Section Twenty (20) Township Nine (9) South Range eighty (80) West of the Sixth Principal Meridian in said County of Lake, with necessary side-tracks, water tanks, station buildings, fences, cattle-guards and other usual and proper appurtenances to a railway, said railway of the party of the first part being six and one-half (6½) miles in length, more or less ; and

Issue of \$120,000
of bonds and
mortgage securing
same authorized.

WHEREAS, The party of the first part in order to secure means for the construction of said railway, has heretofore authorized the execution and sale of its mortgage bonds to the number of one hundred and ten (110) and of the denomination of One Thousand Dollars (\$1,000.00) each, bearing

interest at the rate of eight (8) per cent. per annum, payable semi-annually; and to secure the payment of such bonds, has executed and delivered to B. Aymar Sands and Charles H. Woodruff, of New York City, Trustees, its mortgage or deed of trust, conveying the said railway and railway line and all property appurtenant thereto, and its franchises; and

Lease of A. S. L.
Ry. Co. to C. M.
Ry. Co.

WHEREAS, By said mortgage or deed of trust, it is, among other things provided, that the said party of the first part, its assignees or lessees shall have the right to purchase at par, upon any day when interest shall be due upon said bonds, after one year from the date thereof, so many of said bonds as it may elect, providing it shall have given notice in writing to the said B. Aymar Sands and Charles H. Woodruff, Trustees, at least five (5) months prior to any such interest day, of the number and amount of bonds it may elect to purchase; and

Recital of provision
of mortgage as to
redemption of bonds
before maturity

WHEREAS, Said party of the second part in order to shorten the distance and to avoid the expense and delay occasioned by hauling through Leadville, passengers and freight from points east of Leadville to points west thereof, and vice versa, desires to operate said railway in connection with its own road, and to that end has proposed to lease, with a right or option of purchase, from the party of the first part, its said railway and the appurtenances thereto;

Proposal of C. M.
to lease road with
option to purchase.

NOW THEREFORE, In consideration of the premises and of the undertakings and agreements on the part of the party of the second part hereinafter set forth, the party of the first part hath this day leased and demised, and by these presents doth lease and demise unto the said party of the second part, for the term of thirty (30) years from the date hereof, all the said right of way and railroad of said party of the first part, extending from said point on the road of the party of the second part, in said Section Twenty-two (22) to said point on the road of said party of the second part in said Section twenty (20) being altogether six and one-half ($6\frac{1}{2}$) miles more or less, of main road, together with all its real estate, embankments, bridges, turn-outs, side-tracks water tanks, engine-houses, depots, turn tables, and other buildings and structures; also all its tools and machinery and all its railroad property acquired and to be acquired, including everything appurtenant to said railway, or used

Leasing clause.

For the term of
30 years.

Description of
railroad and
property leased.

Lease of A. S. L.
Ry. Co. to C. M.
Ry. Co.

in connection therewith, together with all the rents, issues and profits, tolls, earnings and income belonging or accruing to said party of the first part, from said railway, as the owner thereof.

Habendum clause,
term of lease.

TO HAVE AND TO HOLD the said property, real and personal, including the said railway appurtenances, franchises, rights and credits, to the said party of the second part, its successors and assigns, from the date hereof, for and until the full period of thirty (30) years, ending on the 31st day of March, A.D. 1919.

Rental.

AND THE SAID PARTY OF THE SECOND PART, in consideration of the leasing of said premises and property by the said party of the first part, and of the other covenants herein contained to be kept and performed by the said party of the first part, hereby agrees that it will well and truly pay or cause to be paid, at the offices of Messrs. S. S. Sands & Company, 62 Cedar Street, New York City, or at such other place in said New York City, as said Trustees may hereafter in writing direct, as rent for said demised premises, the sum of Eight Thousand Eight Hundred Dollars (\$8,800.00) per annum, payable in monthly instalments of Seven hundred thirty-three and $\frac{1}{10}$ Dollars (\$733.33) on the last day of each and every month during the continuance of this agreement of Lease, the first of such payments to be made on the 30th day of April, A.D. 1889.

C. M. to pay all taxes
and assessments.

THE SAID PARTY OF THE SECOND PART AGREES, as a further condition of the leasing of said premises, that it will pay all taxes and assessments that may be lawfully imposed upon said railway and railway property, or any part thereof, during the continuance of this lease; that it will, at all times during such continuance, keep said railway and railway property in good condition and repair, meaning thereby, that it will keep it in as good a condition and in as good repair as it keeps the main line of its own railway, and will make all necessary renewals, replacements and improvements, and will use and operate said road in a skilful and efficient manner, and will keep all buildings and other structures which constitute a part of said railway property, insured in good and reliable Insurance Companies, for not less than two-thirds ($\frac{2}{3}$) of the cash value thereof, in the name, and for the benefit of, the party of the first part.

Also to keep railway
and other property
in repair.

Renewals.

Insurance.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED BY and between the parties aforesaid, that if the rent herein reserved shall be unpaid on the day when payment thereof ought to be made, or if default shall be made in any of the other covenants or agreements herein contained, to be kept by the said party of the second part, its successors or assigns, it shall and may be lawful for the said party of the first part, its successors or assigns, at its election, to declare the said term ended, and into the said premises, or any part thereof, either with or without process of law, to re-enter, and the said party of the second part, or any other person or corporation occupying, in or upon said premises, or exercising any rights or control over the said property, or any part thereof, under and by virtue of this Indenture, to expel and remove, using such force as may be necessary in so doing, and the said premises, the said railway and all of the property appurtenant thereto, to re-possess and enjoy as in its first and former estate, without first making any demand for the payment of said rent upon the said premises or elsewhere, or giving any notice that this lease is forfeited, any provisions in the Statutes of Colorado to the contrary notwithstanding.

AND IT IS FURTHER AGREED AND UNDERSTOOD by and between the said parties, that the authority above given to re-enter and take possession of said premises, in case of a forfeiture of said lease as above described, is a license in law to the lessor and its successors or assigns, to so re-enter and take possession of said premises, and no action for trespass or other action shall be brought by the said lessee, its successors or assigns in case it or they shall be forcibly dispossessed from said premises by the exercise of said license. And if, at any time, said term shall be ended at such election of said party of the first part, its successors or assigns, as aforesaid, or in any other way, the said party of the second part, for itself, its successors or assigns, does hereby covenant and agree to surrender and deliver up said above described premises and property peaceably to said party of the first part, its successors and assigns immediately upon the termination of said term, as aforesaid, and if it or they shall remain in possession of said premises and property, or any part thereof, thirty (30) days after notice of default, or

Lease of A. S. L.
Ry. Co. to C. M.
Ry. Co.

On default in payment
of rent or otherwise,
A. S. L. may terminate
lease and enter and
expel C. M.

License of lessor to
enter in such case.

Covenant of lessee in
case of such termination
to surrender
premises peaceably.

Lease of A. S. L.
Ry. Co. to C. M.
Ry. Co.

after the termination of this lease by expiration of the term or otherwise, it or they shall be deemed guilty of a forcible detainer of said premises under the statute, and shall be subject to all the conditions and provisions above named, and to eviction and removal, forcible or otherwise, with or without process of law as above stated.

A. S. L. to deposit 90
shares of its capital
stock with Trustees
under its mortgage
until C. M. shall have
redeemed outstanding
A. S. L. bonds or re-
linquished rights to
do so.

AND IN CONSIDERATION of the promises and undertakings on the part of the said party of the second part, herein set forth, the said party of the first part does further agree that it will, within ten (10) days from the date hereof, place in the hands of the said B. Aymar Sands and Charles H. Woodruff, Trustees, under said mortgage or deed of trust, a certificate or certificates for ninety (90) shares of its full paid capital stock, to be held by said Trustees or their successors in trust, until the said party of the second part shall have purchased or redeemed, as hereinafter provided, all of the said bonds issued by said party of the first part, or shall have relinquished its rights so to do, or forfeited such right by reason of the termination of this lease by default, as aforesaid, or otherwise.

Provision as to
option of C. M. to
purchase bonds
of A. S. L. and
manner of exercising
election.

AND THE SAID PARTY OF THE FIRST PART further agrees that in the event that the party of the second part shall at any time after one year from the date of said bonds, notify the party of the first part in writing of the election of the party of the second part to purchase at par the number of bonds in said notice specified, on the then next interest day, the party of the first part will, in accordance with the terms of said mortgage or deed of trust, give like notice to the Trustees thereunder of such election, in order that the party of the second part may be enabled to avail itself of the privilege of purchasing said bonds, as in said mortgage or deed of trust conditioned. Provided, that the party of the second part shall give such notice of its election to purchase said bonds, to the party of the first part, at least five (5) months prior to the then next interest day, it being the intent of this provision of this agreement to give to the party of the second part the same right and privilege of purchasing said bonds as the party of the first part has, under the terms and conditions of said mortgage or deed of trust.

When bonds all
purchased, said
capital stock to
be redelivered.

AND THE PARTY OF THE FIRST PART further agrees that when all of said bonds shall have been purchased by the

party of the second part, its successors or assigns, under and in pursuance of the conditions and provisions of said mortgage or deed of trust and of this agreement or otherwise, the said certificate or certificates for ninety (90) shares of the capital stock so to be placed in the hands of said B. Aymar Sands and Charles H. Woodruff, Trustees, as aforesaid, shall be, upon demand, delivered to, and shall become the property of the said party of the second part, its successors or assigns.

Lease of A. S. L.
Ry. Co. to C. M.
Ry. Co.

AND IT IS FURTHER AGREED that while said certificate or certificates of stock shall remain in the hands of said Trustees as aforesaid, the stock represented thereby shall not be entitled to vote, and shall, for that purpose be treated and considered as unissued stock.

Said capital stock
while thus deposited
not entitled to vote.

AND IT IS FURTHER AGREED that in the event of the termination of this lease, by reason of any default in the terms thereof, on the part of the party of the second part, or by mutual agreement or otherwise, said capital stock and the certificate or certificates therefor so placed in escrow, as aforesaid, in the hands of said Trustees, shall thereupon revert to the party of the first part, and the party of the first part, shall, in such event, be entitled to demand and receive the said certificate or certificates from said Trustees.

In case of termination
of lease by reason of
default, said capital
stock to be returned
to A. S. L.

IN WITNESS WHEREOF, The said parties have caused these presents to be signed by their respective Presidents, and their respective corporate seals, attested by the Secretary, to be hereto attached the day and year first above written.

Attesting clause.

THE ASPEN SHORT LINE RAILWAY COMPANY.

By J. B. WHEELER,

[SEAL]

President.

Attest:

WM. HENRY REESE,

Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

By JOHN SCOTT,

[SEAL]

President.

Attest:

E. W. SELLS,

Secretary.

Lease of A. S. L.
Ry. Co. to C. M.
Ry. Co.

Acknowledgment
by A. S. L.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

On this third day of May, 1889, before me, George A. Pease, a Commissioner of Deeds for the State of Colorado, within and for the State of New York, residing in the City of Brooklyn, County of Kings, and State of New York, personally appeared Jerome B. Wheeler and William Henry Reese, each to me personally known and known to me as respectively the President and the Secretary of the said The Aspen Short Line Railway Company, and each acknowledged that he executed the foregoing instrument as such President and Secretary, by order of the Board of Directors of such Company, as the free and voluntary act of said Company, and as his own free and voluntary act for the uses and purposes therein set forth.

Affidavit as to
corporate seal.

And the said Jerome B. Wheeler and William Henry Reese, being each by me duly sworn, did depose and say, each for himself, that the seal affixed to the foregoing instrument is the corporate seal of the said The Aspen Short Line Railway Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above mentioned.

[SEAL]

GEORGE A. PEASE,
*A Commissioner of Deeds for the State
of Colorado.*

Acknowledgment
of C. M.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

On this 17th day of May, 1889, before me, John De Witt Peltz, a Notary Public within and for said County and State, personally appeared John Scott and E. W. Sells, each to me known and known to me as respectively the President and Secretary of the said The Colorado Midland Railway Company, and each acknowledged that he executed the foregoing instrument as such President and Secretary, by order of the Board of Directors of said Company, as the free and voluntary act of said Company, and as his own free and voluntary act for the uses and purposes therein set forth.

Affidavit.

And the said John Scott and E. W. Sells, being each by

me duly sworn, did depose and say, each for himself, that the seal affixed to the foregoing instrument is the corporate seal of the said The Colorado Midland Railway Company.

Lease of A. S. L.
Ry. Co. to C. M.
Ry. Co.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above mentioned.

JOHN DE WITT PELTZ,

[SEAL]

*Notary Public for El Paso County,
Colorado.*

My commission expires March 16th, 1892.

RATIFICATION OF THE FOREGOING LEASE

BY THE STOCKHOLDERS OF

THE ASPEN SHORT LINE RAILWAY COMPANY.

EXTRACT FROM THE RECORD OF A SPECIAL MEETING OF THE STOCKHOLDERS OF THE ASPEN SHORT LINE RAILWAY COMPANY, HELD AT COLORADO SPRINGS, COLORADO, ON APRIL 1, 1889.

A. S. L. Stockholders'
Meeting, April 1, 1889.

Mr. Rogers offered and moved the adoption of the following resolution:

RESOLVED, That the action of the Board of Directors of this Company at a meeting of said Board held at the office of the Company in the city of New York on the 15th day of March A.D. 1889, in authorizing the execution by the President and Secretary of this Company and under its corporate seal, of a certain indenture of lease and agreement between this Company and the Colorado Midland Railway Company, whereby this Company leases to said The Colorado Midland Railway Company all its railway track and appurtenances thereto, and its franchises, said railway track being situated in the County of Lake, and being six and one-half miles in length, more or less, and that the terms and conditions upon which said Indenture of Lease and said Agreement are made, as set forth in a copy of said Lease dated April 1st, 1889, and now submitted to this meeting, be and the same are hereby ratified and in all respects confirmed.

Action of directors
authorizing
execution of foregoing
lease ratified.

A S. L. Stockholders' Meeting
Stock vote.

Said motion having been duly seconded, said resolution, upon call of the roll, was adopted by the following vote:

WALTER HOWE,	Aye.
GORDON NOYES,	Aye.
W. H. REESE,	Aye.
H. T. ROGERS,	Aye.
JOHN SLOANE,	Aye.
J. B. WHEELER,	Aye.

The same being all of the stockholders of this Company.

RATIFICATION OF THE FOREGOING LEASE

BY THE STOCKHOLDERS OF

THE COLORADO MIDLAND RAILWAY COMPANY.

G. M. Stockholders' Meeting, April 3, 1889.

EXTRACT FROM THE RECORD OF AN ADJOURNED MEETING OF THE STOCKHOLDERS OF THE COLORADO MIDLAND RAILWAY COMPANY, HELD AT COLORADO SPRINGS ON APRIL 3D, 1889.

Mr. J. J. Hagerman offered the following resolution, and moved its adoption, viz. :

Preamble.

WHEREAS The Aspen Short Line Railway Company has recently constructed its railway and telegraph line from a point near Crystal Lake Station, in Section twenty-two (22), Township ten (10) South, Range eighty (80) West of the Sixth Principal Meridian, County of Lake, State of Colorado, to a point in Section Twenty (20), township nine (9) South, range eighty (80) West of the Sixth Principal Meridian, in the said County of Lake, being six and one-half miles of railway and telegraph line, more or less, together with side tracks, water tanks, station buildings, fences, cattle guards and other useful and proper appurtenances of a railway; and

WHEREAS, It has been proposed that this Company shall lease from said Aspen Company its said railway property and franchises; and

WHEREAS, It is the opinion of the Stockholders here assembled that it is for the best interests of this Company to secure the use of such property and franchises by lease as aforesaid ;

C. M. Stockholders'
Meeting.

NOW THEREFORE, BE IT RESOLVED, That the President and the Secretary of this Company be, and they are hereby authorized to execute a lease of said property and franchises with said The Aspen Short Line Railway Company, said lease to be for such length of time and upon such terms and conditions as may be approved by the Board of Directors of this Company.

Execution of lease
of A. S. L. authorized.

Said motion being duly seconded, upon call of the roll of stockholders, the total amount of stock represented at said meeting, viz. : sixty-two thousand seven hundred and thirty-three (62,733) was voted in favor of its adoption.

Stock vote.

The Chairman thereupon declared said resolution adopted.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE COLORADO MIDLAND RAILWAY COMPANY HELD AT COLORADO SPRINGS, COLORADO ON APRIL 3, 1889.

C. M. Directors'
Meeting, April 3, 1889

On motion of Mr. Thompson seconded by Mr. Busk the following resolution was adopted :

RESOLVED that in accordance with the action of the stockholders at the annual meeting held at Colorado Springs on April 1st, 1889 ratifying the lease of the Aspen Short Line by the Colorado Midland Railway Company, submitted to said meeting, the Board of Directors hereby direct the President and Secretary to execute said lease in due and legal form.

President and
Secretary directed
to execute said lease
in accordance with
vote of stockholders.

LEASES AND CONTRACTS

MADE BY

**THE DENVER AND RIO GRANDE
RAILROAD COMPANY.**

TO AND WITH

**THE COLORADO MIDLAND RAILWAY
COMPANY.**

LEASE

BY THE

DENVER AND RIO GRANDE RAILROAD CO.

TO

THE COLORADO MIDLAND RAILWAY CO.

**OF ONE UNDIVIDED HALF OF THE ROAD BETWEEN NEWCASTLE
AND RIFLE CREEK.**

Dec. 24, 1889.

Parties.

THIS INDENTURE, made and entered into this 24th day of December, in the year of our Lord One thousand eight hundred and eighty-nine, by and between THE DENVER AND RIO GRANDE RAILROAD COMPANY, hereinafter known as the "Denver Company," party of the first part, and THE COLORADO MIDLAND RAILWAY COMPANY, hereinafter known as the "Midland Company," party of the second part, each of said parties being a corporation organized and existing under the laws of the State of Colorado, WITNESSETH: THAT

Recitals.

WHEREAS, the Midland Company is the owner of a standard gauge railroad, extending from Colorado Springs El

Paso County, Colorado, to the town of Newcastle, Garfield County, Colorado; and

Lease by D. & R. G. to C. M. of undivided half of road between Newcastle and Rifle Creek.

WHEREAS, The Denver Company is the owner of a narrow gauge railroad extending from the town of Newcastle to a point at or near the mouth of Rifle Creek, in said Garfield County; and

Recitals.

WHEREAS, THE RIO GRANDE JUNCTION RAILWAY COMPANY, hereinafter known as the "Junction Company," is about to enter upon the construction of a standard gauge railroad from a connection with the tracks of the said Denver Company, at or near the mouth of Rifle Creek, and thence running southwesterly along the valley of the Grand River to a point within or near the City of Grand Junction, Mesa County, Colorado, where it will connect with the tracks of the Rio Grande Western Railway Company, hereinafter known as the "Western Company;" and

WHEREAS, The Midland Company desires to secure a connection with the railroads of the Junction Company and the Western Company, and to that end has applied to the Denver Company for a lease of its said railroad from Newcastle to Rifle Creek; and

WHEREAS, It is contemplated and expected that the Denver Company and the Midland Company will jointly lease from the Junction Company the said railroad, so to be constructed by the Junction Company between Rifle Creek and Grand Junction, and that thereafter the said railroad or railroads from Newcastle to Grand Junction will be operated in the joint interest of the Denver Company and the Midland Company, as one continuous line of road;

NOW, THEREFORE, In consideration of the premises and of the mutual undertakings and agreements, on the part of the parties hereto, hereinafter set forth, it is agreed as follows:

Agreement and lease.

FIRST. The Denver Company hath this day leased and demised, and by these presents doth lease and demise unto the Midland Company, for the term of fifty years from the first day of January, A.D. Eighteen hundred and ninety, an equal undivided moiety in and to all the right of way and railroad of the Denver Company, extending from the point

Lease by D. & R. G. to C. M. for 50 years from Jan. 1, 1890, of an undivided half of right of way and railroad described.

Lease by D. & R. G.
to C. M. of undivided
half of road between
Newcastle and Rifle
Creek.

of connection of the tracks of the Denver Company with the tracks of the Midland Company, in Section thirty-one (31), Township six (6) South, Range ninety-one (91) West, Garfield County aforesaid, to the present terminus of the railroad of the said Denver Company in Section Sixteen (16), Township six (6) South, Range ninety-three (93) West, in said Garfield County, and being near the mouth of said Rifle Creek, the main line of road hereby leased being thirteen (13) miles in length more or less; together with all the real estate, franchises, embankments, bridges, turnouts, side tracks, telegraph line, water tanks, engine-houses, depots, turn-tables and other buildings and structures belonging or appertaining to the said railroad, not including, however, any rolling stock; also all the rents, issues, profits, tolls, earnings and income thereof; subject, nevertheless, to the liens and incumbrances of all existing mortgages thereon; subject, also, to any rights of use or occupancy of the said railroad heretofore acquired by The Colorado Railway Company, under and by virtue of a certain agreement in writing made and entered into between the said The Colorado Railway Company and the Denver Company, under date of December 24th, 1888, a copy of which said agreement is attached to this lease, marked "Exhibit A."

D. & R. G. to relay
and improve road-bed
and tracks in specified
manner.

SECOND. In order that the railroad hereby leased may be operated in connection with the railroad so to be constructed as aforesaid, by the Junction Company, with the greatest efficiency and economy, and to avoid the transfer of freight and passengers at the proposed point of connection of the said railroads, the Denver Company shall, on or before the first day of January, 1890, relay the road-bed of the railroad hereby leased, with steel rails of a weight of not less than sixty (60) pounds to the yard, making the track thereof of a gauge of four feet eight and one-half inches; shall ballast said track in a good and workmanlike manner and shall, in every respect, put the railroad hereby leased in good condition, meaning thereby that the Denver Company shall put said railroad in as good condition as it maintains any part of the line of railroad owned by it.

TO HAVE AND TO HOLD the said property, real and personal, including the said railroad appurtenances, rights and franchises to the said party of the second part, its successors and assigns, from the first day of January, A.D. Eighteen hundred and ninety (1890) for, during and until the full period of fifty years, ending on the thirty-first day of December, A.D. Nineteen hundred and thirty-nine.

Lease by D. & R. G. to C. M. of undivided half of road between Newcastle and Rifle Creek.

Habendum clause.

And the said party of the second part, in consideration of the leasing of said premises and property by the said party of the first part, and of the other covenants herein contained, to be kept and performed by the said party of the first part, hereby agrees that it will well and truly pay, or cause to be paid, at the office of the Treasurer of the said party of the first part, in the City of Denver, Colorado, or at such other place in said City of Denver, or in the City of New York, as the party of the first part may hereafter in writing direct, as rent for said demised premises, a sum of money equal to two and one-half ($2\frac{1}{2}$) per cent. per annum, upon the actual cost of the railroad and appurtenances hereby leased, excluding cost of franchises, and including the cost of said change of gauge; it being, however, agreed that such actual cost shall in no event, be reckoned at a less rate than twenty thousand dollars (\$20,000.00) a mile; and for the purpose of determining such actual cost, the party of the first part agrees that its books of account, vouchers and all other papers, showing or relating to expenditures made on account of the construction or maintenance of said railroad, shall be furnished to the party of the second part, or to any person or persons designated by it, to examine the same. The rent hereby reserved, to be ascertained as aforesaid, shall be paid in semi-annual instalments on the last day of June and the last day of December in each year; the first instalment to be payable on the last day of June, 1890; provided, however, and it is expressly agreed that the rent, including taxes, reserved herein shall commence to run only from the time when the party of the first part shall have completed the relaying of the track of said railroad and the putting of the same in good condition as aforesaid.

Rental of $2\frac{1}{2}$ per cent of actual cost of leased road, said cost not to be reckoned at less than \$20,000 a mile

Times of payment of rent.

Lease by D. & R. G. to C. M. of undivided half of road between Newcastle and Rifle Creek.

C. M. to pay one-half of taxes, assessments and insurance.

Provision for construction of necessary additions and improvements during term of lease.

The said party of the second part also agrees, as a further condition of the leasing of said premises, that it will pay, as the same shall become due and payable, and be ascertained and demanded of it, one-half of all taxes and assessments that may be lawfully imposed upon said railroad and railroad property, or any part thereof; also one-half the cost of insurance of said property during the continuance of this lease.

IT IS FURTHER AGREED, That if the Midland Company shall, at any time during the continuance of this lease, deem any additional side-tracks, double tracks, buildings or any other addition to any portion of the railroad hereby leased, essential or necessary, it shall call upon the Denver Company to construct the same upon reasonable notice, and if the Denver Company shall not agree as to the necessity of such additional tracks, buildings or other improvements, or shall refuse to construct the same, the question as to the need thereof shall be referred to arbitrators, as hereinafter provided, and their decision shall be final and shall be carried out by the Denver Company without delay. If additions to, or improvements upon, the property hereby leased, or any part thereof, are made by the Denver Company, during the term of this lease, by the building of additional tracks, or by the building of spurs or branches, the Midland Company shall have the right to occupy and enjoy equal use of the same or any part thereof, if it shall so elect, and in the event of its making such election, or in the event that the Denver Company shall make any additions to said property at the request of the Midland Company, as aforesaid, the Midland Company shall pay to the Denver Company, as rent for the use of such additions and improvements, from the time when it shall elect to enter into the possession or occupancy of the same, (or if such additions or improvements shall be made at the request of the Midland Company, then from the time when the same shall be completed by the Denver Company), a sum of money equal to two and one-half per cent. per annum upon the actual cost thereof, such actual cost to be determined in the manner hereinbefore set forth, and such payments to be

made on the day when the semi-annual payment of rent shall become due, as aforesaid.

AND IT IS FURTHER AGREED, that in the event that the said Colorado Railway Company shall, at any time, enter upon the use or occupancy of the premises hereby leased, or any part thereof, under and by virtue of its said agreement with the Denver Company, or otherwise, then and in that event the amount of rent to be paid by the Midland Company, from the time when the said Colorado Railway Company shall enter into such use and occupancy, shall be so adjusted that the amount of such rent to be paid by the Midland Company shall not exceed one-third of the interest, reckoned at the rate of five per cent. per annum, upon the actual cost of the railroad and appurtenances hereby leased, and one-third of all taxes and assessments lawfully imposed thereon, and cost of insurance.

AND IT IS HEREBY FURTHER AGREED that the cost of maintaining the tracks, buildings and other railroad property hereby leased shall be apportioned between, and paid by, the parties hereto, upon a wheelage basis, and that, in the event that the Colorado Railway Company shall hereafter enter upon the use or occupancy of said railroad or any part thereof, the cost of such maintenance, renewals and replacements shall thenceforward and thereafter be apportioned between the three companies, viz: The Colorado Railway Company, the Denver Company and the Midland Company, upon a wheelage basis.

AND IT IS FURTHER AGREED that the said railroad shall be operated by the parties hereto jointly, and in connection with the railroad to be constructed as aforesaid by the Junction Company (in case a lease of said last named railroad shall be secured by the Denver Company and the Midland Company or by either of them), for their equal and joint benefit and advantage and in accordance with such schedules of rules or regulations, for the movement of engines and trains thereover, and in accordance with such provisions and conditions regarding the method of operation, as shall hereafter be agreed upon between the parties.

AND IT IS FURTHER AGREED, as one of the conditions

Lease by D. & R. G. to C. M. of undivided half of road between Newcastle and Rifle Creek.

If Colorado Ry. Co. enters upon use of premises, rent to be adjusted accordingly.

Maintenance of tracks and property to be apportioned on wheelage basis. If Col. Ry. Co. enters such expenses to be apportioned between the three companies.

Road to be operated jointly in connection with proposed road of Junction Co. if leased.

Not assignable without written consent of other party.

Lease by D. & R. G. to C. M. of undivided half of road between Newcastle and Rifle Creek.

D. & R. G. not to grant any further right in the leased premises to any corporation or person without written consent of Midland Co.

Each party to make such further agreements or writings as shall be necessary for various purposes enumerated

Construction of additions and improvements. Provision for arbitration as to same.

of the making of this lease and of the payment of the rent thereunder, that neither of the parties hereto shall make any assignment of this lease, or of any right or interest granted or acquired hereunder, without the written consent of the other party first had and obtained thereto; also that the Denver Company shall not grant to any railroad or other corporation or individual, any right to the use or occupancy of the premises hereby leased or any portion thereof, except such right as may have been heretofore acquired by the Colorado Railway Company under its said agreement with the Denver Company, without the written consent of the Midland Company first had and obtained thereto.

IT IS HEREBY FURTHER AGREED, that each of the parties hereto shall, upon reasonable request of the other party, execute any and all other and further agreements or writings, relating to rules and regulations regarding the maintenance and operation of the said railroad and railroad property, including the making of time cards for the running of trains thereover, responsibility for accidents and any and all other matters and things as may be requisite or proper, to secure to each of the parties hereto, equal rights and facilities in the use and enjoyment of the railroad and railroad property hereby leased, or necessary to fully carry this agreement into effect, in accordance with the true intent and meaning thereof.

IT IS HEREBY FURTHER AGREED that if the Midland Company shall, at any time, request the construction of any additional tracks, buildings or other additions to, or improvements upon, the railroad or railroad property hereby leased, and the Denver Company shall not agree as to the propriety or necessity for the same, the question in dispute shall be referred to arbitrators who shall be appointed and act as follows: The party demanding such arbitration shall give written notice to the other party, stating the question to be submitted for such decision, and nominating some disinterested person to act as one of the arbitrators. If, at the expiration of ten days from the receipt of such notice, the party receiving it has not noti-

fied the party demanding the arbitration of its nomination of a second arbitrator, having like qualifications as the first, the party making the demand may make the selection of such second arbitrator, and the first and second arbitrators so chosen shall select a third, and the Board of Arbitrators thus chosen shall fix the day and place for the hearing, of which the parties shall be severally notified, which hearing may be adjourned from time to time as the Board of Arbitrators may determine. If the two arbitrators thus chosen shall be unable to agree upon a third arbitrator, such third arbitrator may be appointed upon ten days' notice, upon motion by either party, by a Judge of the Circuit or District Court of the United States, within and for the District of Colorado. The decision or award of a majority of such arbitrators made after hearing the testimony and arguments which may be submitted by each party, in accordance with the rules and regulations fixed by the Board of Arbitrators, shall be delivered in writing to each of the parties and shall be final and binding upon each. If either party shall refuse to keep and perform such award, the other party may enforce the same by proper proceedings in any court of law or equity.

IT IS HEREBY FURTHER AGREED by and between the parties hereto that if the rent herein reserved shall be unpaid on any day when payment thereof ought to be made, or if default shall be made in any of the other covenants or agreements herein contained, to be kept by the said party of the second part, its successors or assigns, it shall and may be lawful for the said party of the first part, its successors or assigns, at its or their election, to declare the said term ended. And if at any time said term shall be ended at such election of the said party of the first part, its successors or assigns, or by the expiration of the term of this lease, or in any other manner, the said party of the second part, for itself, its successors and assigns, does hereby covenant and agree to surrender and deliver up said above described premises and property peaceably, to the said party of the first part, its successors or assigns immediately upon the termination of said term, as afore-

Lease by D. & R. G. to C. M. of undivided half of road between Newcastle and Rifle Creek.

On default in payment of rent or otherwise D. & R. G. may declare term ended.

On termination or expiration of lease, C. M. shall surrender possession peaceably and immediately.

Lease of D. & R. G.
to C. M. of undivided
half of road between
Newcastle and
Rifle Creek.

said, and if it or they shall remain in possession of said premises and property or any part thereof, thirty (30) days after default and notice thereof, or after the termination of this lease by expiration of the term or otherwise, it or they shall be deemed guilty of a forcible detainer of said premises under the statute.

Attesting clause.

IN WITNESS WHEREOF, the said parties have caused these presents to be signed in duplicate by their respective Presidents, and their respective corporate seals, attested by the Secretary, to be hereto attached, the day and year first above written.

THE DENVER AND RIO GRANDE RAILROAD COMPANY.

By DAVID H. MOFFAT,

[SEAL]

President.

Attest:

J. W. GILLULY,

Ass't Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

By HENRY T. ROGERS,

[SEAL]

Vice-President.

Attest:

OSCAR BUNKE,

Ass't Secretary.

Acknowledgment
of C. M.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this 2nd day of January, A.D. 1890, before me, a Notary Public in and for said County, in said State, personally appeared HENRY T. ROGERS, personally known to me to be the same person who executed the foregoing instrument of writing, and known to me also to be the Vice-President of the said The Colorado Midland Railway Company, and acknowledged that he executed the foregoing instrument in writing by order of the Board of Directors of said Company, as the free and voluntary act of the said

Company and as his own free and voluntary act, for the uses and purposes therein set forth. And the said HENRY T. ROGERS being by me duly sworn, on his oath states that the Seal affixed to the foregoing instrument is the corporate seal of the said The Colorado Midland Railway Company.

Lease of D. & R. G.
to C. M. of undivided
half of road between
Newcastle and
Rifle Creek.

WITNESS my hand and Notarial Seal this second day of January, A.D. 1890.

[SEAL]

L. B. JOHNSON,

Notary Public.

My commission expires December 24, A.D. 1892.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

Acknowledgment
of D. & R. G.

On this 3rd day of January, A.D. 1890, before me, a Notary Public in and for said County in said State, personally appeared DAVID H. MOFFAT, to me personally known to be the same person who executed the foregoing instrument of writing, and known to me to be the President of the said The Denver and Rio Grande Railroad Company, and acknowledged that he executed the foregoing instrument in writing by order of the Board of Directors of said Company as the free and voluntary act of the said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

Also personally appeared before me, this day, J. W. GILLULY, personally known to me, and known to me to be the Assistant Secretary of said The Denver and Rio Grande Railroad Company, and acknowledged that he, as said Assistant Secretary of said Company, affixed the corporate seal thereof to said instrument.

WITNESS my hand and official seal this 3rd day of January, A.D. 1890.

GRANT L. HUDSON,

[SEAL]

Notary Public.

My Commission expires September 15, 1893.

(EXHIBIT A.)

Agreement with
Col. Ry. Co.
attached to
foregoing lease.

THIS MEMORANDUM OF AGREEMENT, Made and entered into this 24th day of December, A.D. 1888, by and between THE COLORADO RAILWAY COMPANY, hereinafter called the "Colorado Company" party of the first part, and THE DENVER AND RIO GRANDE RAILROAD COMPANY, hereinafter called the "Denver Company," party of the second part, WITNESSETH AS FOLLOWS:

WHEREAS, The Colorado Company has certain prior filings and claims for right of way between Glenwood Springs and Elk Creek, along the valley of the Grand River, in the State of Colorado, and has been engaged and is now engaged in constructing its grade along said right of way between the points aforesaid, with a view of extending its line of railway to and beyond said territory; and the Denver Company is desirous of constructing its line of railroad from said Glenwood Springs along the valley of the Grand River between said Glenwood Springs and Elk Creek, and beyond said Elk Creek to the town of Grand Junction, in said State of Colorado; and

WHEREAS, Owing to natural obstacles it is impracticable to build two roads between said points without great and unusual cost;

NOW, THEREFORE, To avoid unnecessary expense, and to facilitate the building and operation of the railroads of said companies, the parties hereto mutually agree with each other as follows:

The Denver Company shall have, and it is hereby granted, the right and privilege to take, occupy and hold where necessary, so much of the right of way and grade of said Colorado Company between said town of Glenwood Springs and said Elk Creek as is necessary for its single main track and necessary side-tracks, telegraph line, water-tanks, coal sheds, station and section-houses and other necessary structures. The Denver Company shall, on or before February 1st, A.D. 1889, pay to the Colorado Company the cost of all grading and other labor done or performed by the said Colorado Company between the points last aforesaid, including a fair share of engineering and other general expenses incurred by said Colorado Company; the amount to be paid to be fixed by Mr. R. J. McClure.

In consideration of the foregoing, the Denver Company hereby grants to the Colorado Company, the right, at any

time within ten (10) years from the date hereof, to enter upon and thereafter to enjoy and use in perpetuity, equal traffic facilities and joint occupancy with the said Denver Company over and upon the right of way and tracks of the Denver Company at and between said Glenwood Springs and Grand Junction, or upon any such portion of the line between said points as the Colorado Company may elect, upon an annual rental of four (4) per cent. on half the cost of such portions of said line as it may so use, and of the permanent improvements and betterments thereon, (not including the cost of any rolling stock or other property not actually used by said Colorado Company) and its proportion of the cost of maintenance thereof, based on wheelage; and shall also pay one-half of the taxes assessed against the property so used by the said Colorado Company, and one-half the cost of insurance. It being, however, expressly agreed and understood that the said Colorado Company shall not be permitted under this agreement to use the station, terminal or yard facilities of the said Denver Company at Glenwood Springs, unless it shall elect, as above provided, to use jointly at least so much of the railroad of the said Denver Company as lies between Glenwood Springs and Elk Creek. The right hereby granted shall extend to an equal occupation and enjoyment of the use of the said tracks and property of the Denver Company at and between Glenwood Springs and Grand Junction, as aforesaid, inclusive, and all tracks, side-tracks and switches, yards, terminals, depots and depot grounds and facilities, water-tanks, and each and every the appurtenances of the said line of railroad; and the said Denver Company agrees to make any necessary changes in its line between the points aforesaid, as to grade and curvature, to meet the requirements of said Colorado Company, in such manner and to such extent as shall be agreed upon by the Chief Engineers of said Companies.

If, instead and in lieu of exercising its rights and privileges hereinbefore granted, the said Colorado Company shall elect and determine to build its own road between said Glenwood Springs and said Elk Creek, and to build its said line along and adjoining the line of road so to be built by the Denver Company, in such case the right of joint occupancy and use herein granted by the Denver Company shall cease and be void; and if the Colorado Company shall so elect to build its line, the Denver Company shall facilitate such construction, and shall move its line of track wherever necessary by reason of the topog-

Agreement with
Col. Ry. Co.
attached to
foregoing lease.

Agreement of
Col. Ry. Co.
attached to
foregoing lease.

raphy of the country, and wherever practicable, but at no point exceeding ten (10) feet; and the Colorado Company shall not call upon the Denver Company to move its track at any point except where great and unusual expense would thereby be saved; and if the Denver Company shall have constructed any sidings between the points aforesaid, it agrees to remove the same when necessary and when requested so to do by the Colorado Company, and if it shall be impracticable to so remove any portion of such line, then said Colorado Company shall have the right to fully enjoy and use such portion of the Denver Company's line and track; and furthermore, if the said Colorado Company shall build its own road between said Elk Creek and Grand Junction, it may do so upon the right of way of the said Denver Company, if and wherever it may be practicable, paying therefor its fair proportion of such sum or sums as the said Denver Company may have paid for such right of way; and the Denver Company, in such event, will procure the necessary release or releases of the mortgage upon such right of way, so far as possible under the terms of the mortgage of the Denver Company.

Any rights hereafter acquired by the Denver Company to any portion of the present Colorado located line between Glenwood Springs and Elk Creek shall be for the benefit of said Colorado Company to such extent as may be requisite to enable said Colorado Company to construct its independent line, if it shall desire so to do, in accordance with the provisions hereinbefore set out.

It is fully understood that the Denver Company, as it constructs said line, issues and is to issue thereafter its first consolidated mortgage four (4) per cent. gold bonds, and preferred and common stock, and that its said line of road is and is to be subject to the existing mortgage upon the property and franchises of said Denver Company, executed by said Company to the United States Trust Company, as Trustee, dated July 15th, A.D. 1886; and it is further understood, that the said Denver Company also issues and is to issue upon said line of railway its certain five (5) per cent. gold bonds, under the provisions of a certain mortgage known as the "Improvement Mortgage," and bearing date of June 1st, A.D. 1888, executed by the said Denver Company to the United States Trust Company, as Trustee, and that said line of railway constructed and to be constructed, is subject to said improvement mortgage.

It is further agreed between the parties that if, within the period of ten (10) years, as aforesaid, the Colorado

Company shall elect to occupy and use the track of the Denver Company jointly with it, and to take traffic facilities upon said line between Glenwood Springs and Elk Creek, upon the terms aforesaid, and shall determine not to construct its own line between said points, then and in such case the Denver Company agrees to grant and extend to the Colorado Company, upon the terms aforesaid, similar equal traffic facilities on such portion of the line of said Denver Company between Dotsero and Glenwood Springs, inclusive, as the Colorado Company shall elect to take and enjoy; the option to occupy any portion of the line between Dotsero and Glenwood Springs, inclusive, under this contract, to be exercised at the same time as the option to occupy and enjoy the line between Glenwood Springs and Elk Creek, as aforesaid.

Agreement of
Col. Ry. Co.
attached to
foregoing lease.

Of even date herewith, the parties have entered into a contract of similar character to this, relative to joint occupancy and use of the line between Dotsero and Aspen. It is understood that if both agreements are acted upon, they are to be considered and construed together, and that, in estimating, as a basis for rental, the cost of any property, at or between Glenwood Springs and Dotsero, which is described in or covered by both agreements, they shall not be construed as contemplating or providing for a second or double valuation of such property or of any property common to both contracts.

Either party may build branches from the line occupied jointly; and all such branches which shall be built south of Grand River from any point east of Elk Creek shall, at the option of the other party, be occupied and used jointly upon the same terms as are herein provided for the joint use of the main line.

It is understood and agreed, by the parties hereto, that The Colorado Railway Company is now controlled in the interest of The Chicago, Burlington and Quincy Railroad Company, and that the rights and options as to joint trackage and occupancy hereby granted by the Denver Company are to be void and of no effect, if the said Chicago, Burlington and Quincy Company shall, before the Colorado Company exercises its said rights and options, cease to have a material interest either in the Colorado Company or in promoting the construction of its road.

This contract shall be binding upon the successor or successors of the companies, parties hereto; and said parties further mutually agree to execute any and all other and further agreements or writings necessary to fully carry

Agreement of
Col. Ry. Co.
attached to the
foregoing lease.

this contract into effect, in accordance with the true intent and meaning thereof, and particularly with reference to rules and regulations in regard to maintenance of the property and keeping it in repair, and the furnishing to the Colorado Company of regular detailed statements of the cost thereof, and also regulations for the making of time-cards and running of trains over the joint track, responsibility for accidents, etc., and any and all other matters and things requisite or proper to secure to the said Colorado Company equal rights and facilities with the Denver Company in the use and enjoyment of said road and property covered by this agreement.

IN WITNESS WHEREOF, the parties hereto have caused their corporate names to be hereto, and to one other original, subscribed by their respective Presidents, and their corporate seals to be hereto, and to one other original, affixed and attested by their respective Secretaries, the day and year first above written.

THE COLORADO RAILWAY COMPANY.

[SEAL] By CHARLES H. TOLL,
President.

Attest:

W. D. WOODMAN,
Secretary.

THE DENVER AND RIO GRANDE RAILROAD COMPANY.

[SEAL] By D. H. MOFFAT,
President.

Attest:

J. W. GILLULY,
Ass't Secretary.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this 24th day of December, A.D. 1888, before me personally came Charles H. Toll and Warren D. Woodman, the President and Secretary respectively of the Colorado Railway Company, to me personally known, and who being by me duly sworn, the said Charles H. Toll said that he was and is the President of the said The Colorado Railway Company, and that he signed the corporate name of said The Colorado Railway Company to the foregoing con-

tract and affixed his signature as President of said The Colorado Railway Company thereto, in pursuance of a resolution duly adopted by the Board of Directors of said Company; and the said Warren D. Woodman said that he was and is the Secretary of said The Colorado Railway Company, that he knew the corporate seal of said Company, that the seal affixed to the foregoing contract was such corporate seal, and that it was so affixed in pursuance of a resolution duly adopted by the Board of Directors of the said Company, and that he signed his name thereto in pursuance of said resolution as Secretary of said Company. I hereby certify further, that the said Charles H. Toll, who is personally known to me, and known to me to be the President of said The Colorado Railway Company, acknowledged the execution of the foregoing contract as the act and deed of the said The Colorado Railway Company.

Agreement of
Col. Ry. Co.
attached to the
foregoing lease.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my Notarial seal, on this the day and year first above written.

[SEAL]

WILLIAM R. BARBOUR,
Notary Public.

My commission expires October 19, 1892.

AGREEMENT

OF

**THE DENVER AND RIO GRANDE RAILROAD
COMPANY**

WITH

**THE COLORADO MIDLAND RAILWAY COM-
PANY**

AND

**THE RIO GRANDE JUNCTION RAILWAY COM-
PANY**

**FOR THE JOINT OPERATION OF THE LINE BETWEEN RIFLE CREEK
AND GRAND JUNCTION.**

Dec. 24, 1889.
Parties.

THIS AGREEMENT, Made and entered into this twenty-fourth day of December, 1889, by and between THE DENVER AND RIO GRANDE RAILROAD COMPANY hereinafter called the "Denver Company," and THE COLORADO MIDLAND RAILWAY COMPANY, hereinafter called the "Midland Company," parties of the first part, and THE RIO GRANDE JUNCTION RAILWAY COMPANY, hereinafter called the "Junction Company," party of the second part, each of said Companies being a corporation, organized under the laws of the State of Colorado, WITNESSETH:

Recitals.

WHEREAS, The Denver Company and the Midland Company, each is the owner of a railroad running from Colorado Springs, El Paso County, Colorado, to Newcastle, Garfield, County, Colorado; and

WHEREAS, The Denver Company is also the owner of a railroad running from Newcastle, aforesaid, to the mouth of Rifle Creek, Garfield County, Colorado, and has agreed to lease to the Midland Company, for a period of fifty

years, an equal undivided moiety in and to the railroad last mentioned and all the appurtenances thereto; and

Tripartite Agreement
for joint operation
of line from
Rifle Creek to
Grand Junction.

WHEREAS, The Junction Company is now engaged in constructing a railroad from a connection with the railroad of the said Denver Company, at Rifle Creek to a point within or near the City of Grand Junction, Mesa County, Colorado, and to procure the necessary means therefor, has heretofore authorized the execution and issue in due form of its five per cent. first mortgage gold bonds, to the amount of two million dollars (\$2,000,000) and in order to enable it to dispose of said bonds to the best advantage, desires to obtain the joint and several guarantees of the Denver Company and the Midland Company thereon; and

WHEREAS, The Denver Company and the Midland Company wish to acquire, by means of the said road of the Junction Company, a connection, at the said City of Grand Junction, with the railroad of the Rio Grande Western Railway Company, and thereby form, in connection with the railroad of the said Rio Grande Western Company, a through line of road, from Denver to Salt Lake City and Ogden, Utah Territory;

NOW THEREFORE, In consideration of the premises and the undertakings of the parties hereto, hereinafter set forth, it is agreed as follows:

Agreement.

FIRST.—The Denver Company and the Midland Company, each for itself, agrees with the Junction Company to guarantee, jointly and severally, the payment of the principal and interest of the total issue of said five per cent. first mortgage gold bonds of the Junction Company, such issue not to exceed two million dollars (\$2,000,000).

D. & R. G. and C. M.
agree to guarantee
\$2,000,000 first
mortgage bonds
of R. G. J.

SECOND.—The Junction Company hereby agrees to prosecute the work of construction of its said railroad from the mouth of Rifle Creek to Grand Junction, with all reasonable despatch, to construct the same in a first-class manner, with a gauge of four feet, eight and a half inches, to lay the same with steel rails weighing not less than sixty pounds to the yard, to build the necessary side-tracks, turnouts, station houses, water tanks, section houses and all other appurtenances, not including rolling stock, neces-

R. G. J. to construct
its road from
Rifle Creek to
Grand Junction.

Manner of
construction.

Tripartite Agreement
for joint operation
of line from
Rifle Creek to
Grand Junction.
Agreement of
R. G. J. to give
50 years lease to
D. & R. G. and C. M.

Subject to any
rights of Colorado
Ry. Co. under
agreement of
Dec. 24, 1888. See
post p. 809.

Rental.

sary for the proper maintenance and operation of the said railroad, and to complete the same on or before the first day of Máy, 1890.

THIRD.—The Junction Company further agrees that it will, upon the completion of said railroad, or sooner, upon the joint request of the Denver Company and the Midland Company, execute and deliver to the Denver Company and the Midland Company, under the authority of the Board of Directors and of the stockholders of said Junction Company, as required by statute, a lease of said railroad with all the appurtenances, for a term of fifty years from the first day of January, 1890, such lease to contain the conditions usually inserted in leases of railroads, including stipulations for forfeiture, in case of default in payment of rent or otherwise, and also a covenant for renewal of same for a like term and upon like conditions, as well as a covenant to extend, if necessary, the mortgage at its maturity, or to execute in lieu thereof a new mortgage for the same amount, and at such rate of interest, not exceeding five per cent. per annum, as may be agreed upon; such lease shall, however, be subject to any rights of use or occupancy, of the railroad and railroad property hereby agreed to be leased, if any such rights exist, heretofore acquired by the Colorado Railway Company, under and by virtue of a certain agreement in writing, made and entered into between the said The Colorado Railway Company and the Denver Company, under date of December 24th, 1888, a copy of which said agreement last mentioned is attached to this agreement, marked Exhibit A.

FOURTH.—In consideration of the execution of such lease, the Denver Company and the Midland Company hereby agree to pay to the Junction Company, as rent for the railroad and railroad property hereby demised or agreed to be demised, thirty per cent. of the gross earnings of said railroad, from the time when the Denver Company and the Midland Company shall take actual possession thereof, and during the continuance of such lease. The payment of such thirty per cent. of gross earnings is to be made in semi-annual instalments, on the last day of the month next

preceding the maturity of each of the coupons of said first mortgage five per cent. gold bonds, and the said thirty per cent. so to be received by the Junction Company, shall be applied by it only in the following manner, that is to say, first, to the payment of the coupons of said first mortgage five per cent. gold bonds then next maturing, and the surplus, if any, in such manner as the Board of Directors may order. The Denver Company and the Midland Company agree that, in the event that such thirty per cent. of gross earnings of the railroad of said Junction Company, should, during any period of twelve months, reckoning from the time when the Denver Company and the Midland Company take actual possession of said railroad, be less in amount than five per cent. per annum of the aggregate of said bonds, of the said Junction Company, at such time outstanding, the Denver Company and the Midland Company shall, jointly and severally, make good and pay to the Junction Company any deficit in such amount. The Denver Company and the Midland Company also agree to pay all taxes and assessments, of every nature, which may be lawfully levied or assessed against or upon the premises so demised. The said lease shall also contain a provision for the forfeiture of the interest therein of either the Denver Company or the Midland Company, in the event of a default, by either Company, in the payment of any deficit in the rent agreed to be paid, as aforesaid, or in the event of a failure of either Company to make good its guarantee of the said first mortgage five per cent. gold bonds, of the said Junction Company.

Tripartite Agreement
for joint operation
of line from
Rifle Creek to
Grand Junction.

Lessees to pay
all taxes and
assessments.

Provision for
forfeiture on
default.

FIFTH.—The Denver Company and the Midland Company further agree that they will operate the railroad hereby demised or agreed to be demised to them, on joint account, under such provisions, as to method of operation, as may be hereafter mutually agreed upon between them, and in connection with the railroad of the Denver Company, between Rifle Creek and Newcastle, an undivided moiety of which the Denver Company has agreed to lease to the Midland Company as above recited. It is, however, agreed that all additions, betterments, or improvements

D. & R. G. and C. M.
to operate leased
road jointly.

Tripartite Agreement
for joint operation
of line from
Rifle Creek to
Grand Junction.
Lessees to indemnify
R. G. J. for any
injury to person or
property from
maintenance or
operation of road.

necessary to be made to the said property of the Junction Company, shall be made by the Denver company and the Midland Company, jointly and at their joint expense; also that the Denver Company and the Midland Company shall, and they do hereby jointly undertake and agree to, indemnify the Junction Company against any and all loss or damage which it may sustain, by reason of any claims made against it, for injury to person or damage to property, occasioned by, or growing out of, the maintenance or operation of said road, and that the Denver Company and the Midland Company shall, upon demand, repay to the Junction Company, any and all amounts which it may be required to pay, by the adjudication of any court of last resort, on account of any such claims for injury or damage, as aforesaid.

This agreement
subject to
ratification by
stockholders.

SIXTH.—This agreement is not to take effect, until ratified by the shareholders of all the parties hereto, in accordance with the laws of the State of Colorado with reference to the perfecting of leases by railroad companies, at special meetings, called by the respective parties for that purpose.

Attesting clause.

IN WITNESS WHEREOF, the said parties have caused these presents to be signed in triplicate by their respective Presidents, and their respective corporate seals, attested by the Secretary, to be hereto attached, the day and year first above written.

THE DENVER AND RIO GRANDE RAILROAD COMPANY.

By DAVID H. MOFFAT,

[SEAL]

President.

Attest:

J. W. GILLULY,

Asst. Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

By HENRY T. ROGERS,

[SEAL]

Vice-President.

Attest:

OSCAR BUNKE,

Asst. Secretary.

THE RIO GRANDE JUNCTION RAILWAY COMPANY.

By J. W. GILLULY,

[SEAL]

*President.*Tripartite Agreement
for joint operation
of line from
Rifle Creek to
Grand Junction.

Attest:

E. R. MURPHY,

*Secretary.*STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.Acknowledgment
of C. M.

On this 2nd day of January, A.D. 1890, before me, a Notary Public in and for said County, in said State, personally appeared Henry T. Rogers, personally known to me to be the same person who executed the foregoing instrument of writing, and known to me also to be the Vice-President of the said The Colorado Midland Railway Company, and acknowledged that he executed the foregoing instrument in writing by order of the Board of Directors of said Company, as the free and voluntary act of the said Company and as his own free and voluntary act, for the uses and purposes therein set forth. And the said Henry T. Rogers being by me duly sworn, on his oath states that the Seal affixed to the foregoing instrument is the corporate seal of the said The Colorado Midland Railway Company.

Affidavit as to
corporate seal.

WITNESS my hand and Notarial Seal this second day of January, A.D. 1890.

[SEAL]

L. B. JOHNSON,

Notary Public.

My Commission Expires Dec. 24, 1892.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.Acknowledgment
of D. & R. G.

On this 3rd day of January, A.D. 1890, before me, a Notary Public in and for said County in said State, personally appeared David H. Moffat, to me personally known to be the same person who executed the foregoing instrument of writing, and known to me to be the President of the said The Denver and Rio Grande Railroad Company, and acknowledged that he executed the foregoing instru-

Tripartite Agreement
for joint operation
of line from
Rifle Creek to
Grand Junction.

As to affixing
corporate seal.

ment in writing by order of the Board of Directors of said Company as the free and voluntary act of the said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

Also personally appeared before me, this day, J. W. Gilluly, personally known to me, and known to me to be the Assistant Secretary of said The Denver and Rio Grande Railroad Company, and acknowledged that he, as said Assistant Secretary of said Company, affixed the corporate seal thereof to said instrument.

WITNESS my hand and official seal this 3rd day of January, A.D. 1890.

[SEAL]

GRANT L. HUDSON,

Notary Public.

My Commission Expires Sept. 15, 1893.

Acknowledgment
of R. G. J.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

On this 3d day of January, A.D. 1890, before me, a Notary Public in and for said County in said State, personally appeared Joseph W. Gilluly, to me personally known to be the same person who executed the foregoing instrument of writing, and known to me to be the President of the said The Rio Grande Junction Railway Company, and acknowledged that he executed the foregoing instrument in writing by order of the Board of Directors of said Company, as the free and voluntary act of the said Company and as his free and voluntary act for the uses and purposes therein set forth.

As to affixing
corporate seal.

Also personally appeared before me, this day, E. R. Murphy, personally known to me, and known to me to be the Secretary of the said The Rio Grande Junction Railway Company, and acknowledged that he, as such Secretary of said Company, affixed the corporate seal thereof to said instrument.

WITNESS my hand and official seal this 3d day of January, A.D. 1890.

[SEAL]

GRANT L. HUDSON,

Notary Public.

My Commission Expires Sept. 15, 1893.

(EXHIBIT A.)

THIS MEMORANDUM OF AGREEMENT, Made and entered into this 24th day of December, A.D. 1888, by and between THE COLORADO RAILWAY COMPANY, hereinafter called the "Colorado Company" party of the first part, and THE DENVER AND RIO GRANDE RAILROAD COMPANY, hereinafter called the "Denver Company," party of the second part, WITNESSETH AS FOLLOWS:

Agreement with
Col. Ry. Co.
attached to the fore-
going agreement.

WHEREAS, The Colorado Company has certain prior filings and claims for right of way between Glenwood Springs and Elk Creek, along the valley of the Grand River, in the State of Colorado, and has been engaged and is now engaged in constructing its grade along said right of way between the points aforesaid, with a view of extending its line of railway to and beyond said territory; and the Denver Company is desirous of constructing its line of railroad from said Glenwood Springs along the valley of the Grand River between said Glenwood Springs and Elk Creek, and beyond said Elk Creek to the town of Grand Junction, in said State of Colorado; and

WHEREAS, Owing to natural obstacles it is impracticable to build two roads between said points without great and unusual cost;

NOW, THEREFORE, To avoid unnecessary expense, and to facilitate the building and operation of the railroads of said companies, the parties hereto mutually agree with each other as follows:

The Denver Company shall have, and it is hereby granted, the right and privilege to take, occupy and hold, where necessary, so much of the right of way and grade of said Colorado Company between said town of Glenwood Springs and said Elk Creek as is necessary for its single main track and necessary side-tracks, telegraph line, water-tanks, coal sheds, station and section-houses and other necessary structures. The Denver Company shall, on or before February 1st, A.D. 1889, pay to the Colorado Company the cost of all grading and other labor done or performed by the said Colorado Company between the points last aforesaid, including a fair share of engineering and other general expenses incurred by said Colorado Company; the amount to be paid to be fixed by Mr. R. J. McClure.

In consideration of the foregoing, the Denver Company hereby grants to the Colorado Company the right, at any

Agreement with
Col. Ry. Co.
attached to the fore-
going agreement.

time within ten (10) years from the date hereof, to enter upon and thereafter to enjoy and use in perpetuity, equal traffic facilities and joint occupancy with the said Denver Company over and upon the right of way and tracks of the Denver Company at and between said Glenwood Springs and Grand Junction, or upon any such portion of the line between said points as the Colorado Company may elect, upon an annual rental of four (4) per cent. on half the cost of such portions of said line as it may so use, and of the permanent improvements and betterments thereon, (not including the cost of any rolling stock or other property not actually used by said Colorado Company) and its proportion of the cost of maintenance thereof, based on wheelage; and shall also pay one-half of the taxes assessed against the property so used by the said Colorado Company, and one-half the cost of insurance. It being, however, expressly agreed and understood that the said Colorado Company shall not be permitted under this agreement to use the station, terminal or yard facilities of the said Denver Company at Glenwood Springs, unless it shall elect, as above provided, to use jointly at least so much of the railroad of the said Denver Company as lies between Glenwood Springs and Elk Creek. The right hereby granted shall extend to an equal occupation and enjoyment of the use of the said tracks and property of the Denver Company at and between Glenwood Springs and Grand Junction, as aforesaid, inclusive, and all tracks, side-tracks and switches, yards, terminals, depots and depot grounds and facilities, water-tanks, and each and every the appurtenances of the said line of railroad; and the said Denver Company agrees to make any necessary changes in its line between the points aforesaid, as to grade and curvature, to meet the requirements of said Colorado Company, in such manner and to such extent as shall be agreed upon by the Chief Engineers of said Companies.

If, instead and in lieu of exercising its rights and privileges hereinbefore granted, the said Colorado Company shall elect and determine to build its own road between said Glenwood Springs and said Elk Creek, and to build its said line along and adjoining the line of road so to be built by the Denver Company, in such case the right of joint occupancy and use herein granted by the Denver Company shall cease and be void; and if the Colorado Company shall so elect to build its line, the Denver Company shall facilitate such construction, and shall move its line of track wherever necessary by reason of

the topography of the country, and wherever practicable, but at no point exceeding ten (10) feet; and the Colorado Company shall not call upon the Denver Company to move its track at any point except where great and unusual expense would thereby be saved; and if the Denver Company shall have constructed any sidings between the points aforesaid, it agrees to remove the same when necessary and when requested so to do by the Colorado Company, and if it shall be impracticable to so remove any portion of such line, then said Colorado Company shall have the right to fully enjoy and use such portion of the Denver Company's line and track; and furthermore, if the said Colorado Company shall build its own road between said Elk Creek and Grand Junction, it may do so upon the right of way of the said Denver Company, if and wherever it may be practicable, paying therefor its fair proportion of such sum or sums as the said Denver Company may have paid for such right of way; and the Denver Company, in such event, will procure the necessary release or releases of the mortgage upon such right of way, so far as possible under the terms of the mortgage of the Denver Company.

Agreement with
Col. Ry. Co.
attached to the fore-
going agreement.

Any rights hereafter acquired by the Denver Company to any portion of the present Colorado located line between Glenwood Springs and Elk Creek shall be for the benefit of said Colorado Company to such extent as may be requisite to enable said Colorado Company to construct its independent line, if it shall desire so to do, in accordance with the provisions hereinbefore set out.

It is fully understood that the Denver Company, as it constructs said line, issues and is to issue thereafter its first consolidated mortgage four (4) per cent. gold bonds, and preferred and common stock, and that its said line of road is and is to be subject to the existing mortgage upon the property and franchises of said Denver Company, executed by said Company to the United States Trust Company, as Trustee, dated July 15, A.D. 1886; and it is further understood, that the said Denver Company also issues and is to issue upon said line of railways its certain five (5) per cent. gold bonds, under the provisions of a certain mortgage known as the "Improvement Mortgage," and bearing date of June 1st, A.D. 1888, executed by the said Denver Company to the United States Trust Company, as Trustee, and that said line of railway constructed and to be constructed, is subject to said improvement mortgage.

It is further agreed between the parties that if, within the period of ten (10) years, as aforesaid, the Colorado

Agreement with
Col Ry. Co.
attached to the fore-
going agreement.

Company shall elect to occupy and use the track of the Denver Company jointly with it, and to take traffic facilities upon said line between Glenwood Springs and Elk Creek, upon the terms aforesaid, and shall determine not to construct its own line between said points, then and in such case the Denver Company agrees to grant and extend to the Colorado Company, upon the terms aforesaid, similar equal traffic facilities on such portion of the line of said Denver Company between Dotsero and Glenwood Springs, inclusive, as the Colorado Company shall elect to take and enjoy; the option to occupy any portion of the line between Dotsero and Glenwood Springs, inclusive, under this contract, to be exercised at the same times as the option to occupy and enjoy the line between Glenwood Springs and Elk Creek, as aforesaid.

Of even date herewith, the parties have entered into a contract of similar character to this relative to joint occupancy and use of the line between Dotsero and Aspen. It is understood that if both agreements are acted upon, they are to be considered and construed together, and that, in estimating, as a basis for rental, the cost of any property, at or between Glenwood Springs and Dotsero, which is described in or covered by both agreements, they shall not be construed as contemplating or providing for a second or double valuation of such property or of any property common to both contracts.

Either party may build branches from the line occupied jointly; and all such branches which shall be built south of Grand River from any point east of Elk Creek shall, at the option of the other party, be occupied and used jointly upon the same terms as are herein provided for the joint use of the main line.

It is understood and agreed, by the parties hereto, that The Colorado Railway Company is now controlled in the interest of The Chicago, Burlington and Quincy Railroad Company, and that the rights and options as to joint trackage and occupancy hereby granted by the Denver Company are to be void and of no effect, if the said Chicago, Burlington and Quincy Company shall, before the Colorado Company exercises its said rights and options, cease to have a material interest either in the Colorado Company or in promoting the construction of its road.

This contract shall be binding upon the successor or successors of the companies, parties hereto; and said parties further mutually agree to execute any and all other and further agreements or writings necessary to fully carry

this contract into effect, in accordance with the true intent and meaning thereof, and particularly with reference to rules and regulations in regard to maintenance of the property and keeping it in repair, and the furnishing to the Colorado Company of regular detailed statements of the cost thereof, and also regulations for the making of time-cards and running of trains over the joint track, responsibility for accidents, etc., and any and all other matters and things requisite or proper to secure to the said Colorado Company equal rights and facilities with the Denver Company in the use and enjoyment of said road and property covered by this agreement.

Agreement with
Col. Ry. Co.
attached to the fore-
going agreement.

IN WITNESS WHEREOF, the parties hereto have caused their corporate names to be hereto, and to one other original, subscribed by their respective Presidents, and their corporate seals to be hereto, and to one other original, affixed and attested by their respective Secretaries, the day and year first above written.

THE COLORADO RAILWAY COMPANY.

By CHARLES H. TOLL,

[SEAL]

President.

Attest:

W. D. WOODMAN,

Secretary.

THE DENVER AND RIO GRANDE RAILROAD COMPANY.

By D. H. MOFFAT,

[SEAL]

President.

Attest:

J. W. GILLULY,

Asst. Secretary.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this 24th day of December, A.D. 1888, before me personally came Charles H. Toll and Warren D. Woodman, the President and Secretary, respectively of the Colorado Railway Company, to me personally known, and who being by me duly sworn, the said Charles H. Toll, said that he was and is the President of the said The Colorado Railway Company, and that he signed the corporate name

Agreement with
Col. Ry. Co.
attached to the fore-
going agreement.

of said The Colorado Railway Company to the foregoing contract and affixed his signature as President of said The Colorado Railway Company thereto, in pursuance of a resolution duly adopted by the Board of Directors of said Company; and the said Warren D. Woodman said that he was and is the Secretary of said The Colorado Railway Company, that he knew the corporate seal of said Company, that the seal affixed to the foregoing contract was such corporate seal, and that it was so affixed in pursuance of a resolution duly adopted by the Board of Directors of the said Company, and that he signed his name thereto in pursuance of said resolution as Secretary of said Company. I hereby certify further, that the said Charles H. Toll, who is personally known to me, and known to me to be the President of said The Colorado Railway Company, acknowledged the execution of the foregoing contract as the act and deed of the said The Colorado Railway Company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my Notarial seal, on this the day and year first above written.

[SEAL]

WILLIAM R. BARBOUR,
Notary Public.

My commission expires October 19, 1892.

For agreement between the Link Railway Construction Company, The Denver and Rio Grande Railroad Company and The Colorado Midland Railway Company in regard to the securities of the Rio Grande Junction Railway Company, see *post*, p. 896.

LEASE

OF

THE DENVER & RIO GRANDE RAILROAD CO.

TO

THE COLORADO MIDLAND RAILWAY CO.

DATED NOVEMBER 15, 1890.

OF RIGHT TO USE IN COMMON TERMINALS AT GRAND JUNCTION.

THIS INDENTURE OF LEASE, made this 15th day of November, A.D. 1890, between the DENVER AND RIO GRANDE RAILROAD COMPANY, party of the first part, hereinafter known as "the lessor," and THE COLORADO MIDLAND RAILWAY COMPANY, party of the second part, hereinafter known as "the lessee," each of said parties being a corporation organized and existing under the laws of the State of Colorado, WITNESSETH:

WHEREAS, The lessor owns and has heretofore used for railroad purposes a railroad yard within or adjoining the town of Grand Junction, Mesa County, Colorado, with station buildings, machine-shops, engine-houses, side-tracks, switches, water-stations and other appurtenances and facilities necessary and convenient for the transaction of railway business, and has heretofore, by indenture of lease, dated December 1, 1889, leased and demised to the Rio Grande Western Railway Company, hereinafter known as the "Western Company," the equal common use with the lessor and with such other railway company or companies as the lessor might thereafter admit thereto, the joint use of said yards, tracks, buildings, shops, fixtures and other appurtenances, a copy of which said lease is hereto attached and marked "Exhibit 1," and reference is hereby made to Exhibit 1 for the purpose of showing, if necessary, the terms and condi-

Nov. 15, 1890.
Parties.

Ownership of
terminals of
Grand Junction
by D. & R. G.

Previous lease to
Rio Grande
Western Ry. Co.
of equal common
use of such
terminals.

See post p. 823.

Lease of D. & R. G.
to C. M. of joint
use of terminals
at Grand Junction.

tions under and by which the premises and property herein described were demised to the Western Company, and —

WHEREAS, the lessor and the lessee are now operating as joint lessees of the Rio Grande Junction Railway Company the railroad of said Junction Company extending from a connection with the railroad of the lessor at or near the mouth of Rifle Creek, Garfield County, Colorado, to a connection with the railroad of the lessor at the eastern limit of its yard within or near the said town of Grand Junction, and —

Joint operation
of R. G. J.
Desire of C. M. to
secure connection
and use of terminals.

WHEREAS, The lessee, by means of roads owned by it, or upon which it has trackage rights, as lessee or otherwise, is now operating a line of railroad from Colorado Springs to said town of Grand Junction, at which place it desires to secure a connection with the tracks of the Western Company over the tracks of the lessor, and also desires to secure the use of the said yards, station building, machine-shops, engine-houses, side-tracks, switches, water-stations, and other appurtenances and facilities owned by the lessor and now used by it in common with the Western Company; NOW THEREFORE,

Leasing clause.

THIS INDENTURE WITNESSETH, That the Denver and Rio Grande Railroad Company, lessor, in consideration of the rents herein reserved, and of the covenants and agreements on the part of The Colorado Midland Railway Company, lessee, hereinafter contained, has granted, demised and leased, and by these presents does grant, demise and lease unto the said The Colorado Midland Railway Company, for the term of fifty (50) years from the first day of January, 1890, as follows :

Term of 50 years
from Jan. 1, 1890.

ARTICLE I.

Lease of equal
common use of
railroad yard at
Grand Junction.

The lessor hereby leases to the lessee the equal common use with the lessor and with the Western Company, subject to the terms, conditions and limitations hereinafter expressed, of the railroad yard of the lessor at Grand Junction aforesaid, said yard being bounded as follows: On the west by mile-post numbered 425.54, being the point of connection of said yard with the line of railroad of the lessor heretofore leased to the Western Company; on the east by mile-post of the lessor's road, numbered 424.71, the same being near

Description of yard.

the west end of the bridge over the Grand River; and on the north or northeast by mile-post of the lessor, numbered 425.18, the same being a point where said yard connects with the line of road of the Rio Grande Junction Railway Company, and being on the east line of the northwest quarter of Section twenty-three (23), Township one (1) south, of Range one (1) west of the Ute Meridian. Said yard shall include all lands now used for railroad purposes at the station of Grand Junction, or which may be hereafter acquired by the lessor for railroad purposes at said station, and for a more particular description and designation of said lands reference is made to the plat marked "Exhibit A," attached to said lease marked "Exhibit 1," which plat is made a part of this lease.

Lease of D. & R. G.
to C. M. of joint
use of terminals
at Grand Junction.

See post p. 839.

Also, the like equal common use with the lessor and the Western Company, subject to the terms, conditions and limitations hereinafter expressed, of all station buildings, telegraph lines, instruments and fixtures, water supplies, coal-sheds, switches, side-tracks, shops and all structures, fixtures and appurtenances used for railroad purposes at or in said yard, shops or station buildings (for a more particular description and designation of which, reference is made to the inventory marked "Exhibit B," attached to said Exhibit 1, omitting therefrom all property listed therein under the heading "Machinery," and valued in said inventory at sixty-two hundred dollars—\$6,200—no part of which passes under this lease, which inventory, subject to the exception hereinabove stated, is made a part of this lease), together with such other appurtenances and fixtures as may hereafter be made, constructed or acquired for use in connection with railway business, or to facilitate railway transportation at said station.

Also common
use of station
buildings and
appurtenances.

See post p. 840.

TO HAVE AND TO HOLD the above described premises jointly with the lessor and the Western Company, as aforesaid, for and during the said term of fifty (50) years from the 1st day of January, 1890.

Habendum clause

Term of 50 years
from Jan. 1, 1890.

ARTICLE II.

This lease is made upon the following terms and conditions, which are mutually agreed to by the lessor and lessee:

Terms of lease.

Lease of D. & R. G.
to C. M. of joint
use of terminals
at Grand Junction.
Payment of rent.

Provision of
apportionment of
rental in case
Col. Ry. Co. or
other Ry. Co. is
admitted to joint
use of yard, track
and buildings.

Provision for
payment of
additional rent,
in case of additions
or extensions.

I. The lessor reserves, and the lessee hereby covenants and agrees to pay to the lessor, the sum of twenty-five hundred dollars (\$2,500) per annum for the use of the yards, tracks, station buildings, telegraph lines, instruments and fixtures, water supplies, coal-sheds, switches, side-tracks, shops, structures, fixtures and appurtenances situated at said station of Grand Junction, and particularly designated and described in plat marked "Exhibit A," attached to Exhibit 1, and inventory marked "Exhibit B," attached to said Exhibit 1, excepting from said inventory the machinery, tools and implements therein listed, and valued at sixty-two hundred dollars (\$6,200), which said rent shall be paid in equal monthly instalments, on the first day of each and every month, from and after December 1, 1890; *Provided, however,* that the lessor may, at its option, admit The Colorado Railway Company, or other railway company or companies, to the joint use of said yard, track, buildings, shops, structures, fixtures and appurtenances at said station of Grand Junction, upon such terms as may be agreed upon between the lessor and such other company or companies; but in the event of the admission of such other company or companies to the use of said premises, the rental payable by the lessee to the lessor for the use of the property hereinabove described shall thereafter be eighteen hundred and seventy-five dollars (\$1,875) per annum, payable in monthly instalments as aforesaid; and if such rental shall not be paid within ten (10) days after due, the same shall draw interest at the rate of eight (8) per cent. per annum until paid.

In case any lands, betterments, alterations, extensions, facilities or appliances, excepting machinery and tools, are, in the opinion of the lessor, required at said yard or at said station of Grand Junction, in addition to or in lieu of those existing on December 1, 1891 (provided, however, that no change or alteration shall in any wise diminish the facilities then enjoyed by the lessee, without its consent), the same shall be obtained or made by the lessor, and upon the approval by the said Western Company of the cost of such additional lands, betterments, alterations, extensions, facilities and appliances, the lessee shall pay as rent to the lessor, in addition to the amount hereinabove provided, interest on

the sum or sums of the cost thereof from the date or dates of the completion, procurement or purchasing of the same at the rate of two per cent. per annum, payable in monthly instalments on the first day of each month as aforesaid;

Lease of D & R G.
to C. M. of joint
use of terminals
at Grand Junction.

Provided, however, That if the lessor shall hereafter admit any other railway company to the use of said premises jointly with the lessor and lessee, and the Western Company, the interest thereafter to be paid by the lessee as rent for such additional lands, betterments, alterations, extensions, facilities and appliances, shall be at the rate of one and one-half per cent. ($1\frac{1}{2}$) per annum; *And provided further,* That in the event that the lessor shall admit any other company to the joint use of said premises, after the reduction of said interest to one and one-half per cent. ($1\frac{1}{2}$) per annum, as aforesaid, then the rent thereafter to be charged the lessee for the use of such additional lands, betterments, alterations, extensions, facilities and appliances shall be determined by new agreement between the lessor and lessee, and if they cannot agree, the same shall be determined by arbitration, as hereinafter provided.

Provision for
apportionment of
such additional
rent, in case any
other Ry. Co. is
admitted.

2. The salaries of joint station agent and yardmaster shall be apportioned equally between the companies using or occupying said yard and its appurtenances, and the monthly salary of joint master mechanic, after deducting the proportion thereof to be paid by the Western Company, shall be paid by the lessor and lessee in the proportion of the number of engines moved into and out of said yard for the lessor and lessee, respectively, during the month.

Payment of salaries
of joint station
agent, yardmaster
and master
mechanic.

3. The expenses of renewals and repairs of buildings, platforms and other structures, and all taxes, assessments and insurance thereon, and on equipment in joint use, shall be equally apportioned between the several companies using said yard and appurtenances.

Repairs of
buildings, taxes
and insurance.

4. All expenses connected with the maintenance and renewal of tracks and road-bed, and the expense of all switching (including the use of switch-engines and wages of switching-crews), the cost of coal furnished switch-engines, together with the expense of handling such coal, and the cost of oiling, cleaning and inspecting cars and coaches, shall be apportioned between the several companies using said yard upon the basis of wheelage, which, for the purposes,

Renewals of tracks
and other expenses.

Lease of D. & R. G.
to C. M. of joint
use of terminals
at Grand Junction.

of this agreement, shall mean in the proportion of the number of wheels moved into and out of said yard by the several companies using the same, and there shall be counted eight (8) wheels for each engine, coach and car entering or departing from said yard.

Repairs of cars
and engines.

5. The lessor shall make such repairs to cars and engines of the lessee as shall be required by it at the shops or round-houses at said station of Grand Junction, furnishing necessary tools and machinery therefor, and the lessee shall pay for such repairs at the actual cost of labor and material, with ten (10) per cent. added.

Housing and
care of engines.

6. All expenses incidental to the housing and care of road-engines, including materials, coal and supplies for and labor about the engine-houses, sand, kindling-wood and other supplies of like character, and including wages of hostlers, hostlers' helpers, wipers, cleaners, incidental laborers and watchmen, and the cost of water service, shall, so far as practicable, be kept in a separate account, and shall be apportioned among the several companies using said yard in the proportion of the number of road-engines in and out by or for each of said companies, respectively.

Other expenses
connected with
handling of freight
or passenger
traffic.

7. All expenses not herein otherwise provided for, connected with the handling of freight or passenger traffic, passing into, from or through said yard or station at Grand Junction, after deducting therefrom the portion of said expenses to be paid by the Western Company, as provided in said agreement of December 1, 1889, attached hereto as Exhibit 1, shall be apportioned between and paid by the several companies, other than the Western, but including the lessor, using said yard and appurtenances, upon the basis of wheelage, as wheelage is defined in Section 4 of this article.

Provision for
apportionment in
case tax is laid
on business done
at station.

8. In the event that any tax shall be levied or assessed upon the traffic or business done at said station of Grand Junction, at any time during the period of this lease, such tax and assessment shall be apportioned to and paid by each of the companies occupying or using the said yard on the basis of its tonnage.

Covenants of
lessee.

9. The lessee hereby covenants and agrees to pay to the lessor the proper proportion of said lessee, as herein provided, of any and all amounts paid by the lessor for renewals,

repairs, maintenance, taxes and insurance, including insurance on equipment in joint use, and also the proper proportion of said lessee, as herein provided, of all salaries and wages of agents and employees, and its proportion of all other current expenses, as in this instrument provided, within thirty (30) days after a statement showing the amount so due from the lessee shall be rendered by the lessor, which statement shall be rendered on or before the 20th day of the month succeeding that in which the indebtedness is incurred; and, in case payment of its said proportion of such amounts is not made by the lessee within said period of thirty (30) days after bills rendered therefor, the lessee agrees to pay interest thereon, at the rate of eight (8) per cent. per annum, until paid.

Lease of D. & R. G.
to C. M. of joint
use of terminals
at Grand Junction.

10. In the event that any rent, or any sum to be paid by the lessee to the lessor, as herein provided, on account of taxes, renewals, maintenance, repairs or insurance, or its proportion of any other expense, as herein provided, shall be due and remain unpaid for the period of three (3) months after written demand made upon the lessee for the same, the lessor may thereupon re-enter the premises hereby demised and absolutely exclude the lessee therefrom, and from every part thereof.

In case of failure to
pay money due here-
under for 3 months
after written demand,
lessor may enter
and expel lessee.

11. The lessor shall have the exclusive right, as between the lessor and the lessee, to employ and discharge all employees in and about said yard, station, shops and buildings, including telegraph operators and dispatchers, switchmen and the engineers and firemen of switch-engines employed exclusively in and about the said yard, but such employees shall be removed upon the demand of the lessee upon good cause shown, and if the lessor and lessee shall not agree as to what acts or omissions constitute good cause for the removal of any such employee, the question shall be determined by arbitration, as hereinafter provided.

D. & R. G. to have
exclusive right to
employ and
discharge all
employees.

But employees
shall be removed
on demand of
lessee upon good
cause shown.

12. The joint agent appointed by the lessor at said station of Grand Junction shall have supervision of said leased premises, and of the handling of all traffic at said station. He shall accord equality of right between all companies entitled to the use of said leased premises, subject to the provisions of this agreement.

Joint station agent.

It shall be his duty to report promptly to each company

Lease of D. & R. G.
to C. M. of joint
use of terminals
at Grand Junction.

using said yard, shops and appurtenances at said station, any and all casualties occurring or damages inflicted in the operation of engines, trains or otherwise in such yard, or in or about the shops, depots, warehouses, round-houses and other structures connected therewith, and all such damages and all expenses connected therewith shall be paid as follows:

Apportionment of
damages from
negligence of
joint agent
or employee.

(a) If damages to persons or property result from the carelessness or negligence of any agent or employee engaged in the joint service of the several companies, as herein provided, or if the cause of any such casualty or damage cannot be determined, then and in either of such events, such damages and all expenses arising therefrom, after deducting the proportion to be paid by the Western Company, shall be paid by the lessor and the lessee on the basis of their respective wheelage for the six months last preceding the month in which the damage accrued, and wheelage shall be computed as defined in paragraph 4 of this article.

In case of damage
from negligence of
separate employee,
company at fault
must pay.

(b) If any damage to person or property is caused by the fault or negligence of any one of the companies using said yard, or any of its separate employees, the company so in fault shall pay all such damages, including any damage to the property of any other company or companies then jointly occupying the said yard.

Loss by fire.

(c) The provisions of this paragraph shall apply to loss of equipment, freight or baggage, by fire, after deducting any sum collected as insurance thereon.

Switching.

13. The lessor shall have the exclusive right to direct and control all switching and other operations in said yard, which shall be exercised fairly and without discrimination, and nothing in this agreement contained shall be construed as giving the right to the lessee to maintain any switching engine or separate facilities in or about said yard, without the consent of the lessor.

ARTICLE III.

This lease only
to extend to
traffic brought
over R. G. J.

1. This lease, and the rights and privileges herein granted to the lessee, shall extend to the use of said yard, station and appurtenances only for such traffic as the lessee shall bring into or take from said yard over the line of The Rio

Grande Junction Railway Company via Rifle Creek, including local traffic between said Rifle Creek and Grand Junction.

Lease of D. & R. G. to C. M. of joint use of terminals at Grand Junction.

2. In the event that the lessee herein named shall forfeit or otherwise part with its rights, as one of the joint lessees of The Rio Grande Junction Railway Company, in the railroad of said Junction Company extending from a point at or near the mouth of Rifle Creek to a point at the eastern limit of the yard herein described as the premises hereby leased, then, upon the happening of such event, at the option of the lessor, this lease shall, upon written notice, be terminated, and all rights of the lessee therein shall thereupon cease and determine. The lessee shall not assign its interest in this lease, or admit any other company whatsoever to share with it, in any respect, the rights or privileges herein to it granted except upon the written consent of the lessor; *Provided, however,* That if the lessee shall at any time during the continuance of this lease consolidate its property and franchises with those of another railroad company, such consolidated company shall succeed to the rights of the lessee under this contract, but only to the same extent and with the same effect as such rights shall have been enjoyed by the lessee prior to such consolidation.

On forfeiture by lessee, lessor may terminate lease upon written notice.

Lessee shall not assign its interest.

But if lessee consolidates with other Co. Consolidated Co. may succeed to its rights.

3. This lease and the rights hereby granted are subject to the rights of The Western Union Telegraph Company, under its contract with the lessor, and shall not be construed to in any way modify or affect the same.

Lease subject to rights of W. U. Tel. Co. under its contract with lessor.

ARTICLE IV.

Arbitrators to determine any dispute or matter of difference which may arise between the parties hereto, under the provision of Article II., paragraphs 1 and 11, shall be appointed in the manner following: The party desiring the arbitration is hereinafter designated as the complainant, and the other party is hereinafter designated as the respondent; the complainant shall make a statement in writing of its claims and contentions, and cause the same to be served on the respondent, as hereinafter provided, together with a notice appointing an arbitrator, and requiring the respondent

Provisions for arbitration.

Lease of D. & R. G.
to C. M. of joint
use of terminals
at Grand Junction.

Provisions for
arbitration.

to appoint a second arbitrator, within a time to be fixed in the notice, not less than ten (10) days after service of the notice, and the respondent shall thereupon appoint a second arbitrator, and serve notice thereof on the complainant, with a statement of its claims and contentions, within the time limited in the complainant's notice. In case the respondent fails or omits to appoint a second arbitrator, and to serve notice thereof, and a statement as above described, then the arbitrator appointed by the complainant may proceed alone with the arbitration, as herein provided, and in such case the award of such sole arbitrator shall be sufficient. But if the respondent shall appoint a second arbitrator and give notice thereof within the time limited, then the two so appointed shall proceed to select and appoint a third; such selection and appointment shall be made in writing and signed by the two arbitrators, and notice thereof be served upon each of the parties. All the arbitrators shall be disinterested persons, and notice of appointment shall not be valid unless accompanied by the assent in writing of the person selected or appointed to act as arbitrator. In case the two arbitrators appointed by the parties shall fail and omit to select and appoint a third, and serve notice thereof as above provided within the time prescribed by the complainant for the appointment of a second arbitrator, then either party may, on one week's notice to the other and to the two arbitrators already appointed, apply to any Judge of the United States Court within and for any district of the State of Colorado now existing or which may hereafter be created, or to any Judge of the United States when presiding over any Court within such district, for the appointment of a third arbitrator, provided the party first receiving notice of such application shall not give notice of a similar application, on its own behalf, to the same or any other Court, but if for any reason several applications be pending at the same time, whether in the same or different Courts, the one first acted upon by the Court shall prevail, and the person first appointed by the Court shall be the third arbitrator, if such person assent to act as such. The arbitrators so appointed shall require the parties to appear before them at a time and place to be fixed by a notice of not less than six and not more than fourteen days, and at the appointed

time and place they shall proceed with the arbitration and summarily hear and determine the questions involved, provided they may adjourn from time to time and from place to place, as they may deem proper, and ascertain the facts in such manner and by such witnesses as to them may seem meet. Their award shall be in writing, and shall be signed by them or a majority of them, or in case of a sole arbitrator, by him alone. Any award so made shall be final and conclusive upon the parties, and the parties hereto covenant and agree to and with each other to abide by, fully observe and perform whatever may by any such award be required, and that each and every such award may be enforced in any Court of law or equity having jurisdiction of the subject-matter and over the parties.

Lease of D. & R. G.
to C. M. of joint
use of terminals
at Grand Junction.

Service of all notices and papers under the provisions of this article shall be made by a delivery of a copy thereof to the President or Vice-President, General Manager or Secretary of the party intended to be served, and the date of the delivery of such copy to such officer shall be deemed the day of service; the party so served shall have as many clear days within which to do or perform any act by such notice required as are in such notice named—that is, in the computation of time, the day of service shall be excluded.

In case any arbitrator appointed by the complainant shall die, resign or become incapable to act, then the remaining or surviving arbitrators shall appoint the person nominated by the complainant to fill the vacancy. In case any arbitrator appointed by the respondent shall die, resign or become incapable to act, the remaining or surviving arbitrators shall appoint the person nominated by the respondent to fill the vacancy. In case the third arbitrator chosen by the two first selected by the complainant and respondent, respectively, or appointed by the Court, shall die, resign or become incapable, the vacancy shall be filled in any of the modes herein provided for the selection or appointment of a third arbitrator.

IN WITNESS WHEREOF, The said The Denver and Rio Grande Railroad Company and the said The Colorado Midland Railway Company have severally caused their corporate names to be hereunto respectively subscribed and attested

Attesting clause.

The C. M. Ry. Co.

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Lease of D. & R. G.
to C. M. of joint
use of terminals
at Grand Junction.

by their respective corporate seals, the day and year first
above written.

THE DENVER AND RIO GRANDE RAILROAD COMPANY.

By E. T. JEFFERY,

President.

Attest :

J. W. GILLULY,

[SEAL]

Assistant Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

By A. MANVEL,

President.

Attest :

E. W. SELLS,

[SEAL]

Secretary.

Acknowledgment
of D. & R. G.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

On this 18th day of June, A.D. 1892, before me, a notary
public in and for said county, in said State, personally ap-
peared E. T. Jeffery, to me personally known to be the same
person who executed the foregoing instrument of writing,
and known to me to be the President of the said The Denver
and Rio Grande Railroad Company, and acknowledged that
he executed the foregoing instrument in writing by order of
the Board of Directors of said company, as the free and
voluntary act of the said company, and as his own free
and voluntary act, for the uses and purposes therein set
forth.

As to affixing
corporate seal.

Also, personally appeared before me this day, J. W. Gil-
luly, personally known to me, and known to me to be the
Assistant Secretary of said The Denver and Rio Grande
Railroad Company, and acknowledged that he, as said As-
sistant Secretary of said company, affixed the corporate seal
thereto to said instrument.

WITNESS my hand and official seal this 18th day of June,
A.D. 1892.

COLIN A. CHISHOLM,

[SEAL] •

Notary Public.

Commission expires July 10, 1895.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Lease of D. & R. G.
to C. M. of joint
use of terminals
of Grand Junction.
Acknowledgment
of C. M.

On this 17th day of June, A.D. 1892, before me, a notary public in and for said county, in said State, personally appeared A. Manvel, to me personally known to be the same person who executed the foregoing instrument of writing, and known to me to be the President of the said The Colorado Midland Railway Company, and acknowledged that he executed the foregoing instrument in writing by order of the Board of Directors of said company, as the free and voluntary act of the said company, and as his own free and voluntary act, for the uses and purposes therein set forth.

WITNESS my hand and official seal this 17th day of June, A.D. 1892.

L. B. JOHNSON,

[SEAL]

Notary Public.

Commission expires December 24, 1892.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.

Affidavit of
Secretary of C. M.
as to affixing of
corporate seal.

On this 21st day of June, A.D. 1892, before me, a notary public in and for said County, in said State, personally appeared E. W. Sells, to me personally known, and known to me to be the Secretary of said The Colorado Midland Railway Company, and who, being by me duly sworn, did depose and say that the seal affixed to the foregoing instrument is the corporate seal of the said The Colorado Midland Railway Company, and that said seal was affixed thereto and attested by him as Secretary of said company, by order of the Board of Directors of said company.

IN WITNESS whereof, I have hereunto set my hand and affixed my notarial seal, the day and year above mentioned.

A. E. CARLTON,

[SEAL]

Notary Public.

Commission expires October 17, 1894.

EXHIBIT I.

Lease of D. & R. G.
to Rio Grande
Western attached
as exhibit to
foregoing Lease.

THIS INDENTURE OF LEASE, made this 1st day of December, A.D. 1889, between THE DENVER AND RIO GRANDE RAILROAD COMPANY, a corporation organized and existing under the laws of the State of Colorado, lessor, and THE RIO GRANDE WESTERN RAILWAY COMPANY, a consolidated railroad corporation of the State of Colorado, and of the Territory of Utah, lessee, WITNESSETH:

WHEREAS, The lessor is the owner of certain eighteen (18) miles of railroad in Mesa County, in the State of Colorado, commencing at the western terminus of the railroad yard of the said lessor at Grand Junction, in said County of Mesa, and running thence westerly, and which said eighteen miles of railroad the said lessor has heretofore operated as part of the narrow gauge railroad; and —

WHEREAS, the said lessor also owns, and has heretofore used for a narrow gauge railway, a railroad yard at the said town of Grand Junction, in said county, with station buildings, machine shops, engine houses, side-tracks, switches, water stations and other improvements and fixtures adapted to railway business; and it is contemplated that said yard and improvements and appurtenances shall hereafter be used by the parties hereto in common as a railroad yard for both standard and narrow gauge lines of railway; and it is also contemplated that the said lessor may admit The Rio Grande Junction Railway Company, or other railway company, to the use of said yard in common with the parties hereto, and under an agreement or agreements for connection at Grand Junction now made or hereafter to be made;

NOW, THIS INDENTURE WITNESSETH: That the said The Denver and Rio Grande Railroad Company, lessor, in consideration of the rents herein reserved, and of the covenants and agreements on the part of The Rio Grande Western Railway Company, lessee, hereinafter contained, has granted, demised and leased, and does hereby grant, demise and lease, unto the said The Rio Grande Western Railway Company, for the term of fifty (50) years from and after the date hereof:

ARTICLE I.

All that certain line of railroad situated in the County of Mesa, in the State of Colorado, beginning at mile post No. 425.54 on the lessor's line of railroad, said point being the western terminus of the railroad yard now occupied by the lessor at Grand Junction, in said county, and running thence

in a general westerly direction along said line as now constructed to a connection with the line of the railroad of the said lessee at or near Crevasse Station, in said County of Mesa, a distance of eighteen (18) miles; together with the telegraph line, station grounds, buildings, water appropriations, and all appurtenances, improvements and fixtures, belonging or appertaining to said eighteen miles of railroad, and used or to be used in operating the same;

Lease of D. & R. G.
to Rio Grande
Western attached
as exhibit to
foregoing Lease.

TO HAVE AND TO HOLD the above described premises to the sole and exclusive use, benefit and behoof of the said lessee for and during the term aforesaid.

ARTICLE II.

The said The Denver and Rio Grande Railroad Company also hereby leases to the said The Rio Grande Western Railway Company, lessee, the equal common use with the lessor, or with the lessor and other company or companies, as hereinafter provided, for and during the term aforesaid, of the railroad yard of the lessor at Grand Junction, in the said County of Mesa, the said railroad yard being included within the following limits, to wit: On the west by mile-post No. 425.54, being the point of connection of said yard with the line of railroad herein first above described; on the east by Denver and Rio Grande Railroad mile-post 424.71, the same being near the west end of the bridge over the Grand River, and said yard to be limited in the direction of Newcastle by Denver and Rio Grande mile-post 425.18, as the same is measured by way of the Marshall Pass line of the lessor, the same being at the point where said yard will connect with the line of The Rio Grande Junction Railway Company, and being on the east line of the northwest quarter of Section twenty-three (23), Township one (1) south, of Range one (1) west, Ute Meridian. Said yard shall include all lands now used for railroad purposes at said station of Grand Junction, or which may be hereafter acquired by the lessor for railroad purposes at said station. For a more particular description and designation of said lands, reference is made to a plat hereto annexed, made a part of this lease, and marked "Exhibit A," together with such other lands as may hereafter be acquired for railroad purposes at said station.

Also, the like equal common use of all station buildings, water supplies, coal-sheds, switches, side-tracks, shops and all fixtures, appurtenances, tools and implements used for railroad purposes in said yard, shops or station buildings, for a more particular description and designation of which reference is made to an inventory hereto attached and made a

Lease of D. & R. G.
to Rio Grande
Western attached
to foregoing Lease.

part of this lease, marked "Exhibit B," together with such other articles and things of like character as may hereafter be made or acquired for use in connection with railway business, or to facilitate railway transportation at said station.

The use hereby granted is to be in common with the lessor so long as the said yard is used only by the lessor and the lessee; but in the event that the lessor shall admit The Rio Grande Junction Railway Company, or other railway company, as hereinafter provided, to joint use of the same as a railroad yard, then the use thereof shall be equal and in common by the lessor, the lessee and the said The Rio Grande Junction Railway Company, and other company, so admitted to the use of the same.

ARTICLE III.

This lease is made upon the following terms and conditions, which are mutually agreed to by the parties to this instrument, to wit:

1. The lessor reserves, and the lessee covenants and agrees, to pay to the lessor, as rent on the premises, as herein first described, the sum of fourteen thousand four hundred dollars (\$14,400) per annum, payable monthly, to wit, the sum of twelve hundred dollars (\$1,200), payable on or before the 15th day of each month following the calendar month for which the rent accrues; and in case any monthly payment is not made within ten (10) days after the same shall become due, it shall bear interest at the rate of eight (8) per cent. per annum, from the date when due until paid. The rent of said first described premises shall begin to accrue on the 1st day of January, 1890.

2. The lessee also covenants to pay all taxes and assessments (State, county, school or municipal), whether general or special, levied upon or against said first described premises, or any part thereof, as the same shall become due, and to keep the premises leased free and discharged of and from all taxes, liens and encumbrances made, created or suffered by the lessee; to keep the premises in good repair and condition as railway property, and at the end of the term to surrender the same in as good condition as when received by the lessee.

3. The lessor reserves, and the lessee hereby covenants and agrees to pay monthly a sum equal to one-half of five per cent. per annum on the value of the yard, tracks, station buildings, water supplies, coal-sheds, switches, side-tracks, shops, fixtures, appurtenances, tools and implements situated at said station of Grand Junction and particularly designated and described in plat "Exhibit A" and inventory "Exhibit

B," hereto attached; and it is hereby agreed that the value of the same, at the time this lease becomes operative, is one hundred and twenty-five thousand dollars (\$125,000); *Provided however*, That the said lessor may, at its option, admit The Rio Grande Junction Railway Company, or other railway company, to the joint use of said yard, tracks, buildings, shops, fixtures and appurtenances, at the said station of Grand Junction; and, in the event that the said lessor shall so admit such other company or companies to joint use and occupation of said premises, then the lessee shall pay, as rental for its use of said premises, such proportion of said five per cent. per annum of the value of said premises as would be allotted to it upon an equal division of such five per cent. among all the companies so using said premises; and the rent hereby reserved, and which the lessee covenants and agrees to pay, shall be paid monthly, on or before the 15th day of each month succeeding the calendar month for which the same shall accrue; and, if not paid within ten (10) days after due, the same shall draw interest at the rate of eight (8) per cent. per annum until paid.

Lease of D. & R. G.
to Rio Grande
Western attached
to foregoing Lease.

4. The lessor hereby covenants and agrees to furnish the necessary material, and to lay down standard gauge tracks of sixty-five (65) pound steel rail, on standard gauge ties, through the said yard at Grand Junction on its main line, and on at least one side-track, and to suitably fit said yard for the convenient accommodation of standard gauge rolling stock; *Provided, however*, That said tracks, other than the one side-track hereinabove mentioned, may be of lighter weight than sixty-five (65) pounds, except at connections and to clearance points, at which connections and to which clearance points said rail shall be of the weight of sixty-five (65) pounds per yard, as hereinabove provided. Said lessor will also construct such necessary platforms as are now needed to accommodate the business of said station, and also lay standard gauge or three-rail tracks in said yard, so that the same shall be completed in all respects in accordance with the said plat hereto annexed, marked "Exhibit A," and place the buildings on said premises in suitable condition for receiving and caring for standard gauge rolling stock. And it is hereby agreed that the said changes and improvements in said yard in this paragraph specifically mentioned are included within the value of one hundred and twenty-five thousand dollars (\$125,000), hereinabove agreed upon as the basis for rental of said premises.

5. The Rio Grande Western Railway Company, lessee herein, hereby covenants and agrees to furnish, for the eighteen miles of main line herein first above described, sixty-five (65) pound steel rail, switch-rails, switch-stands, frogs, spikes, bolts and angle-bars, which shall be paid for by the said lessor

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to foregoing Lease.

in cash, at cost, with freight added, upon delivery of the same; and the said lessee covenants and agrees further to furnish and put in the track all standard gauge ties necessary to fully complete the said eighteen miles of railway as a well constructed standard gauge road, and to lay thereon standard gauge track from the point of connection of the lessee's line with said leased line, at a point near Crevasse, eastwardly to the yard limits at Grand Junction, hereinabove specifically described, and the cost of the labor and material so to be furnished by the lessee, except as paid for in cash as above provided, shall be allowed by the lessor as payment *pro tanto* for rental of said track, and credited, as the same becomes due, upon the monthly rental hereinbefore reserved by the lessor and agreed by the lessee to be paid.

6. In case any additional improvements or extensions are required at said yard at the station of Grand Junction, beyond those specifically provided for in the fourth paragraph hereof, the same shall be made by the lessor, and the cost thereof approved by the lessee, and the amount of such cost of such additional improvements or extensions, together with the cost of additional lands hereafter acquired by the lessor, with the approval of the lessee, at Grand Junction, for railroad purposes, shall be added to the capital sum fixed in the third paragraph of this article, and interest paid on the sum or sums of the cost of such improvements or extensions or lands from the date or dates of making or purchasing the same, at the same rate and in the same manner provided for interest upon said capital sum of one hundred and twenty-five thousand dollars (\$125,000).

7. The lessor shall appoint a joint station agent, yard-master and master-mechanic or foreman of the shops and round-house at said station of Grand Junction, but all such agents or employees shall at all times be satisfactory to the lessee, and the salaries of such agents and employees shall be divided equally between the companies using or occupying said yard and its appurtenances.

The expenses of renewals and repairs of buildings, platforms and other structures, and all taxes, assessments and insurance upon the same, shall be paid jointly and divided equally between the companies using and occupying said yard, buildings and appurtenances.

All expenses connected with the maintenance and renewals of tracks and road-bed shall be paid jointly by the companies using the same, and divided upon a basis of wheelage.

All repairs to rolling-stock or work done at shops or round-house at said station of Grand Junction shall be paid for at the cost of the work by the company ordering the same to be done.

All expenses connected with the handling of traffic passing through Grand Junction shall be divided so that one-half of such expense shall be paid by the lessee, and the residue by the other companies (including the lessor) that shall at any time be using said yard and appurtenances; and it is hereby agreed that by traffic passing through Grand Junction is meant only all passenger or freight business ticketed or billed beyond Grand Junction in either direction, and passing over any portion of railway operated or controlled by the lessee.

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All expenses connected with the handling of local freight traffic at Grand Junction (meaning hereby all freight, the shipment of which begins or terminates at Grand Junction) shall be paid jointly on the basis of the tonnage handled by each of the several companies using said yard, and the expense of all local passenger traffic (meaning all that passenger business where the journey begins or ends at the town of Grand Junction) shall be apportioned equally between the several companies doing business at said station of Grand Junction, and interested in the use of said yard and station buildings.

In the event that any taxes shall be levied or assessed upon the traffic or business done at said station of Grand Junction at any time during the term of this lease, such taxes and assessments shall be divided and paid by each company on the basis of its tonnage.

The lessee hereby covenants and agrees to pay to the lessor its proper proportion, as hereinbefore provided, of any and all expenses incurred by the lessor for renewals, repairs, maintenance, taxes and insurance, including insurance on freight or baggage in joint warehouse or depot, and on the equipment in joint use, within fifteen (15) days after the account thereof shall be rendered, and in case payment is not made within that time, to pay interest thereon at the rate of eight per cent. per annum until paid.

In the event that any rent, or any sum to be paid by the lessee for taxes, renewals or repairs, shall be due and remain unpaid for the period of six months after demand made for the same, the lessor may re-enter and exclude the lessee from said leased premises and every part thereof.

8. It shall be the duty of the joint station agent herein provided for to promptly report to each company using said yard, shops and appurtenances at Grand Junction any casualties occurring or damages inflicted in the operation of engines, trains or otherwise, in said yard, or in or about the shops, depot, warehouses, round-houses and other structures connected therewith, and all such damages and all expenses connected therewith shall be paid as follows:

(1.) If damages to persons or property result from the

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carelessness or neglect of any person employed in or about said yard or buildings for the joint service of the several companies, as herein provided, or if the cause of such casualty or damages cannot be determined, then, and in either of such events, such damages and expenses shall be paid in equal proportions by the several companies using said yard and buildings.

(2.) If any damage to person or property is inflicted by the fault of either company using said yard, or of its employees, the company so in fault shall pay all damages, including damages to the property of the other company or companies then jointly occupying said yard.

(3.) The provisions of this paragraph shall apply to loss of equipment, freight or baggage by fire, after deducting any sum collected as insurance thereon.

ARTICLE IV.

In case the lessee shall, in order to accommodate increased traffic, and to meet the obligations of the lessor to the public, hereafter and at any time, or from time to time, find it advisable to make improvements upon, additions to, or betterments on the eighteen miles of railroad hereinbefore mentioned, and to extend the facilities for increased business by additional tracks or buildings, by the substitution of stone or iron structures for wooden structures, or in any other way add to the value of the plant, it shall submit estimates and specifications of such improvements, additions or betterments to the lessor, and if the lessor approve thereof in writing, and in case the lessee shall thereupon make such improvements, additions or betterments in accordance with such approved estimates and specifications, then the lessor agrees to refund to the lessee either the cost thereof in cash within sixty (60) days after the bill for the same shall have been rendered, or the value thereof at the end of the term herein provided, according to appraisement, and for the purpose of such appraisement the lessor shall nominate one competent person, and the lessee shall nominate another, and the two so nominated shall select a third, and the three shall thereupon proceed to fix the value of such improvements at the end of said term, and make an award which shall be final if concurred in by any two of the appraisers, and the lessor shall thereupon pay the amount of such award to the lessee in cash. But if the lessor shall avail itself of its option, and pay the cost within sixty (60) days after rendition of bill therefor, then and in every such case the amount of the annual rental shall be increased by a sum equal to five (5) per cent. upon the amount so paid.

and such increase shall be paid by the lessee in equal monthly instalments the same as part of the rental in 1 of Article III. hereof provided for.

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Western attached
to foregoing Lease.

ARTICLE V.

In case any dispute or difference shall hereafter arise respecting the question whether any improvements, betterments and additions deemed advisable by the lessee are proper, or respecting the necessity or cost of additional lands or improvements at Grand Junction for mutual use, or respecting any other matter, cause or thing having reference to or arising out of any one or more of the provisions of this instrument, such dispute or difference shall, if either party desires, be determined by arbitration in manner hereinafter prescribed.

ARTICLE VI.

Appraisers to determine the value of any improvements, betterments and additions, under Article IV. of this instrument, and arbitrators to determine any dispute or matter of difference between the parties, as provided in Article V., shall be appointed in manner following: The party desiring the arbitration or appraisement, as the case may be, is hereinafter designated as the complainant, and the other party is hereinafter designated as the respondent; the complainant shall make a statement in writing of its claims and contentions, and cause the same to be served on the respondent, as hereinafter provided, together with a notice appointing an arbitrator or appraiser, and requiring the respondent to appoint a second arbitrator or appraiser, within a time to be fixed in the notice, not less than ten (10) days after service of the notice, and the respondent shall thereupon appoint a second arbitrator or appraiser, and serve notice thereof on the complainant with a statement of its claims and contentions, within the time limited in the complainant's notice. In case the respondent fails or omits to appoint a second arbitrator, and to serve notice thereof, and such statement as above prescribed, then the arbitrator or appraiser appointed by the complainant may proceed alone with the arbitration or appraisement, as herein provided, and in such case the award of such sole arbitrator or appraiser shall be sufficient. But if the respondent shall appoint a second arbitrator or appraiser, and give notice thereof within the time limited, then the two so appointed shall proceed to select and appoint a third; such selection and appointment shall be made in writing and be signed by the

Lease of D. & R. G.
to Rio Grande
Western attached
to foregoing Lease.

two arbitrators or appraisers, and notice thereof be served upon each of the parties. All the arbitrators and appraisers shall be disinterested persons, and notice of appointment shall not be valid unless accompanied by the assent in writing of the person selected or appointed to act as arbitrator or appraiser. In case the two arbitrators or appraisers appointed by the parties shall fail and omit to select and appoint a third, and serve notice thereof as above provided, within the time prescribed, then either party may, on one week's notice to the other, and to the arbitrators or appraisers, apply to a judge of any United States Court of competent jurisdiction for the appointment of a third arbitrator or appraiser, provided the party first receiving notice of such application shall not give notice of a similar application, on its own behalf, to the same or any other Court, but if for any reason several applications be pending at the same time, whether in the same or in different Courts, the one first acted on by the Court shall prevail, and the person first appointed by such Court shall be the third arbitrator or appraiser, if such person assent to act as such. The arbitrators or appraisers so appointed shall require the parties to appear before them at a time and place to be fixed by notice of not less than six and not more than fourteen days, and at the appointed time and place they shall proceed with the arbitration or appraisal and summarily hear and determine the questions involved, provided they may adjourn from time to time, and from place to place, as they may deem proper, and ascertain the facts in such manner and by such witnesses as to them may seem meet. Their award shall be in writing and shall be signed by them or a majority of them, or in case of a sole arbitrator, by him alone. Any award so made shall be final and conclusive upon the parties, and the parties hereto covenant and agree to and with each other to abide by, fully observe and perform whatever may by any such award be required, and that each and every such award may be enforced in any Court of law and equity having jurisdiction of the subject matter and over the parties.

Services of all notices and papers under the provisions of this article shall be made by a delivery of a copy thereof to the President or Vice-President, General Manager or Secretary of the party intended to be served; and the date of the delivery of such copy to such officer shall be deemed the day of service; the party so served shall have as many clear days within which to do or perform any act by such notice required, as are in such notice named — that is, in the computation of time, the day of service shall be excluded.

In case any arbitrator or appraiser appointed by the complainant shall die, resign or become incapable to act, then

the remaining or surviving arbitrators or appraisers shall appoint the person nominated by the complainant to fill the vacancy. In case any arbitrator or appraiser appointed by the respondent shall die, resign or become incapable to act, the remaining or surviving arbitrators or appraisers shall appoint the person nominated by the respondent to fill the vacancy; and in case the third arbitrator or appraiser chosen by the two first selected by the complainant and respondent respectively, or appointed by a Court, shall die, resign or become incapable, the vacancy shall be filled in any of the modes herein provided for the selection or appointment of a third arbitrator or appraiser.

Lease of D. & R. G.
to Rio Grande
Western attached
to foregoing Lease.

IN WITNESS WHEREOF, The said The Denver and Rio Grande Railroad Company and the said The Rio Grande Western Railway Company have severally caused their corporate names to be hereunto respectively subscribed and attested by their respective corporate seals, the day and year first above written.

THE DENVER AND RIO GRANDE RAILROAD COMPANY.

By DAVID H. MOFFAT,
President.

Attest:

J. W. GILLULY,
Assistant Secretary.

THE RIO GRANDE WESTERN RAILWAY COMPANY.

By WM. J. PALMER,
President.

Attest:

WM. F. COLTON,
Assistant Secretary.

STATE OF COLORADO, {
ARAPAHOE COUNTY, { ss.

On this 3d day of January, A.D. 1890, before me, a notary public in and for said county in said State, personally appeared David H. Moffat, to me personally known to be the same person who executed the foregoing instrument of writing, and known to me to be the President of the said The Denver and Rio Grande Railroad Company, and acknowledged that he executed the foregoing instrument in writing by order of the Board of Directors of said Company as the free and voluntary act of the said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

Also, personally appeared before me this day, J. W. Gilluly, personally known to me, and known to me to be the

Lease of D. & R. G.
to Rio Grande
Western attached
to foregoing Lease.

Assistant Secretary of said The Denver and Rio Grande Railroad Company, and acknowledged that he, as said Assistant Secretary of said Company, affixed the corporate seal thereof to said instrument.

WITNESS my hand and official seal this 3d day of January, A.D. 1890.

GRANT L. HUDSON,
Notary Public.

My commission expires September 15, 1893.

TERRITORY OF UTAH, }
COUNTY OF SALT LAKE, } ss.

On this ninth (9th) day of January, A.D. 1890, before me, a notary public in and for said county, in said Territory, personally appeared William J. Palmer, to me personally known to be the same person who executed the foregoing instrument of writing and known to me to be the President of the said The Rio Grande Western Railway Company, and acknowledged that he executed the foregoing instrument of writing by order of the Board of Directors of said Company, as the free and voluntary act of said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

Also, personally appeared before me this day, William F. Colton, personally known to me and known to me to be the Assistant Secretary of said The Rio Grande Western Railway Company, and acknowledged that he, as said Assistant Secretary of said Company, affixed the corporate seal thereof to said instrument.

WITNESS my hand and official seal this ninth (9) day of January, A.D. 1890.

W. M. BRADLEY,
Notary Public.

My commission expires A.D. 1892.

EXHIBIT "A."

**R.R. YARD AT GRAND JUNCTION,
MESA CO. COLO.**

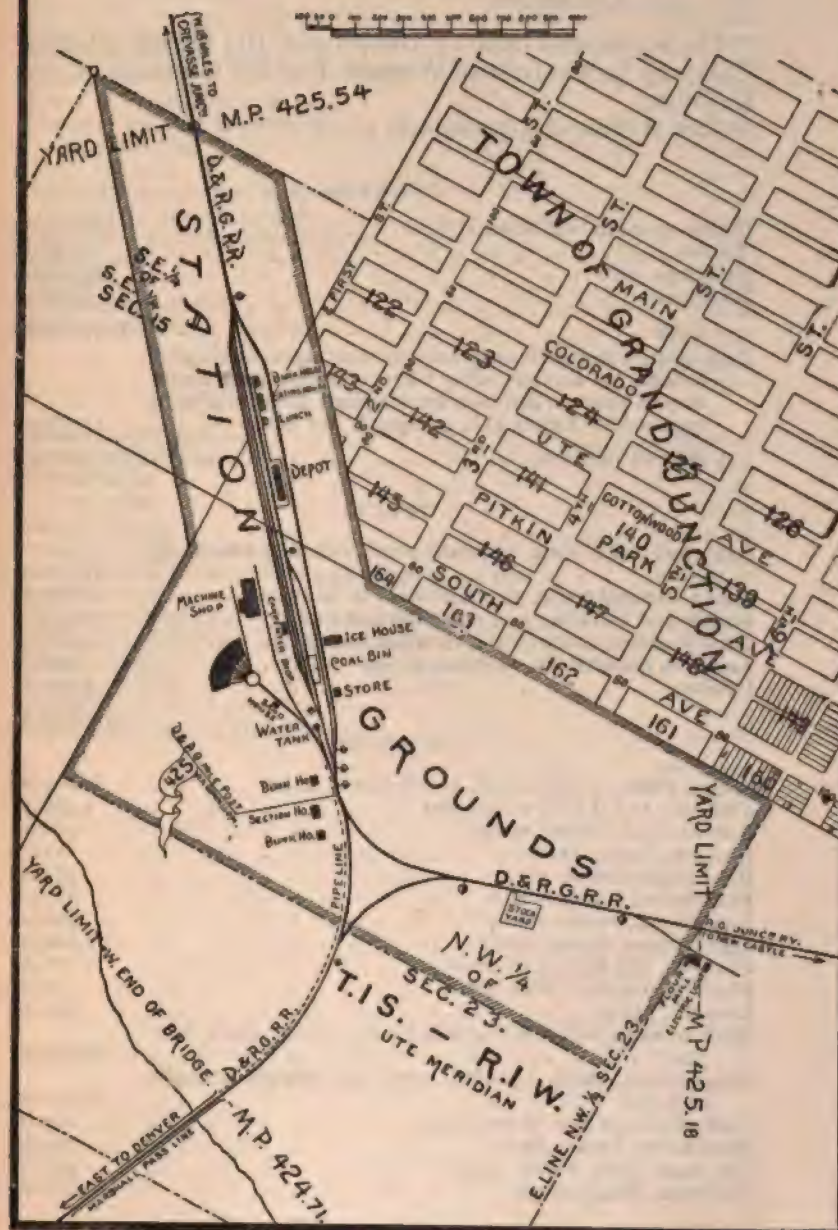


EXHIBIT B.

INVENTORY OF STATION GROUNDS, BUILDINGS, TRACKS,
MACHINERY AND OTHER FACILITIES AT GRAND JUNC-
TION, COLORADO.

(To accompany lease by Denver and Rio Grande Railroad
Company to Rio Grande Western Railway Company of said
facilities.)

(See Article III., paragraph 3.)

SUMMARY.

Station grounds, 108 acres at \$500	\$54,000.00
Tracks	19,648.00
Buildings, etc.	62,152.00
Machinery	6,200.00
Total	<u>\$142,000.00</u>
Less amount deducted arbitrarily to meet agreed valuation in lease (no account being taken of expenditure neces- sary to prepare facilities for standard gauge traffic, as required by Article III., paragraph 4 of lease)	17,000.00
Agreed valuation	<u><u>\$125,000.00</u></u>

TRACKS.

6,120 feet main track, 30-pound steel, including wye, at 60 cents	\$3,672.00
10,013 feet side track, 30-pound steel, at 60 cents	6,008.00
Laying and surfacing 3.05 miles track at \$1,000	3,050.00
2-rail 30-pound connections, 14 miles, at \$107	1,498.00
Labor on connections, 14 miles, at \$30	420.00
Grading	5,000.00
	<u>\$19,648.00</u>

BUILDINGS.

Depot, frame, 30x30, 10x28, 10x28, 3.6x14, 28x27	\$7,000.00
Platform, 14,658 feet, at 10 cents	1,465.80
Section-house, frame, 20x40	900.00
Coal-box, frame, 5x10	15.00
Bunk-house, frame, 16x20	325.00
Bunk-house, frame, 16x20	325.00
Lunch-room, frame, 18x24	500.00
Eating-house, frame, 28x75	1,900.00
Platform, 760 feet, at 10 cents	76.00
Platform, 100 feet, at 10 cents	10.00
Laundry, 24x40	600.00
Machine-shop, brick, 52.8x150.9, 25x29, 8x18.2, stack base 11x11	16,500.00
Round-house, brick, 159.6x68, stone pits 264x68, 11 stalls at \$1,500	16,500.00
Platform, 1,051 feet, at 10 cents	105.10
Sand-house, frame, 16x16	300.00
Car repair shop, frame, 14x30	450.00
Ice-house, frame, 28x60	650.00

Pump-house, stone, 20x30	\$1,800.00
Pipe-line, 6,523 feet, at 50 cents	3,261.50
Pump-house machinery	1,400.00
Watch-house, 12x18	100.00
Keystone turn-table, 50 feet	2,500.00
Track scale, 50 feet	1,000.00
Ash pits, two, at \$225	450.00
Water-tank	1,500.00
Stock yard, 96x108	450.00
Refrigerator-house, 8x14	275.00
Wood-house, 8x12	25.00
B. and B. storehouse, 16x32	250.00
Platform, 256 feet, at 10 cents	25.60
Coal-house, 12x16	100.00
Coal-bin, 12x24	40.00
Coal-platform, 480 feet, at 10 cts.	48.00
Coal-platform, 14x31, 15x108	310.00
Fifty-barrel oil tank, three, at \$140.	420.00
Ice-box, 4x10	15.00
Root-cellar	100.00
Privies, three, at \$20	60.00
Sewer, 1,000 feet, at 40 cents	400.00
	<u>\$62,152.00</u>

MACHINERY.

24-inch Drill Press	\$408.00
44-inch Drill Press	550.00
16-inch Lathe	365.00
25-inch Lathe	628.00
12-inch Shaper	955.00
Stationary engine and boiler	1,200.00
2-inch line shaft with pulleys and hangers, 150 feet	550.00
Sturdevant blower	164.00
Blacksmith forges with smoke-jacks, four	640.00
Anvils with blocks and tools complete, four	160.00
Portable forge	20.00
Vises, four at \$5	20.00
Vise-benches, six at \$15	90.00
Round house stoves, fifteen at \$30	450.00
	<u>\$6,200.00</u>

DOCUMENTS

RELATING TO

THE RIO GRANDE JUNCTION RAIL- WAY COMPANY

THE STOCK OF WHICH IS HELD EQUALLY BY

THE COLORADO MIDLAND RAILWAY COMPANY AND THE DENVER
AND RIO GRANDE RAILROAD COMPANY.

ARTICLES OF INCORPORATION

OF

THE RIO GRANDE JUNCTION RAILWAY COMPANY.

STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE.

Certificate of
Sec'y of State.

UNITED STATES OF AMERICA, {
STATE OF COLORADO, { SS.

Articles filed
June 26, 1889.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Articles of Incorporation of the Rio Grande Junction Railway Company, which was filed in this office the twenty-sixth day of June, A.D. 1889, at 2.30 o'clock P.M., and admitted to record.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the city of Denver this Fifteenth day of September, A.D. 1892.

E. J. EATON,
Secretary of State.

[SEAL]

ARTICLES OF INCORPORATION OF THE RIO GRANDE JUNC-
TION RAILWAY COMPANY.

Art. of Inc. R. G.
Junct. Ry. Co.

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, Roswell E. Briggs, Grant L. Hudson, Harlan P. Parmelee, Charles W. Betts and Charles H. Robinson, all residents of the City of Denver in the State of Colorado, desiring to associate ourselves together under and in pursuance of the laws of the State of Colorado relating to the formation of corporations, and to form a company for the purpose of carrying on the business named in these articles, do make, sign and acknowledge these our original articles of incorporation, and we do state, declare and specify as follows, to-wit :

Names of
incorporators.

I.

The corporate name of this company shall be THE RIO GRANDE JUNCTION RAILWAY COMPANY.

Corporate name.

II.

The objects for which said company is created are : to construct, equip, operate and maintain a line or lines of railroad, with single and double tracks, and side tracks, as hereinafter described, and telegraph lines in connection therewith ; to acquire, by purchase, or otherwise, rights of way and real estate necessary to the business of this company, and to erect or purchase improvements thereon at pleasure, and to mortgage or lease the whole or any part of such railroad, with the improvements thereon, at pleasure ; and to have and enjoy such powers as are now or hereafter may be given by the laws of the State of Colorado to railroad corporations ; to establish, maintain and conduct an express business in, upon and along said line or lines of railroad, and any lines of railroad or lines of stages connecting therewith ; to purchase, acquire, own, hold and dispose of stock and bonds of other railroads or construction companies in the State of Colorado ; to purchase, take and hold, sell and convey real property, agricultural, timber, mineral and other lands, coal and other mines, deposits and quarries and other

Corporate purposes
and powers.

**Art. of Inc. R. G.
Junct. Ry. Co.**

property along, upon or adjacent to the route of any of the lines of railroad hereinafter described, if the same shall be deemed beneficial or necessary to the interests of this company; and if deemed useful for the promotion of such interests, to lease, use, operate and manage and control any such lands, mines, deposits, quarries and other property; said company shall also have power to borrow money and execute and issue its notes, bonds, or other securities therefor, and to mortgage its property and franchises, as security for such bonds or other obligations, and shall have and exercise such incidental and necessary powers in addition to those herein named as shall be necessary, requisite or proper to effectuate and accomplish the objects and purposes aforesaid.

III.

**Authorized line
of railroad.**

The railroad of this company shall be constructed as follows, to-wit: From Rifle Creek in Garfield County, State of Colorado, following the valley of the Grand River in said State of Colorado in a southwesterly direction to a point on the Denver and Rio Grande railroad at the City of Grand Junction, County of Mesa, State of Colorado, a distance of sixty-four (64) miles, more or less.

IV.

**Term of corporate
existence, 50 years.**

The time of the commencement of the proposed company shall be the twenty-fifth (25th) day of June, A.D. 1889, and the term of the existence of said company shall be fifty (50) years from the date of the filing of these Articles with the Secretary of State for the State of Colorado, with power of renewal and perpetual succession, as provided by law.

V.

**Directors for
first year.**

The affairs of this company, for the first year of its existence shall be managed by David H. Moffat, Walter S. Cheesman, Sylvester T. Smith, Joseph W. Gilluly, Andrew S. Hughes, and E. R. Murphy, who shall also constitute a board of directors, in whom shall be vested the government of this company and the management of its affairs.

VI.

Art. of Inc. R. G.
Junct. Ry. Co.
Capital stock.

The capital stock of this company shall be Two millions of dollars (\$2,000,000), divided into Twenty thousand (20,000) shares, of the par value of one hundred dollars (\$100) each.

VII.

The principal business of this company shall be carried on in the Counties of Garfield and Mesa, in the State of Colorado, and the principal office of this company shall be kept in the City of Denver, in the County of Arapahoe and State of Colorado; other offices may be established in such other places where said company may have interests as the board of directors may elect.

Counties in which
principal business
is to be carried on
and principal
office of Co.

VIII.

The board of directors of this company shall have power to make, from time to time, such prudential by-laws for the government of this company as may be necessary; and shall have power to fix the salaries of its officers and agents, and to appoint or remove such officers or agents at pleasure. Meetings of the Directors of said company may be held at such places beyond the limits of the State of Colorado as may from time to time be provided by the by-laws of the said company.

Powers of directors.

Meetings of directors
beyond limits of
State.

IN WITNESS WHEREOF, We have hereunto affixed our hands and seals, at Denver, Colorado, this 25th day of June, A.D. 1889:

Attesting clause.

ROSWELL E. BRIGGS.	[SEAL]
GRANT L. HUDSON.	[SEAL]
HARLAN P. PARMELEE.	[SEAL]
CHARLES W. BETTS.	[SEAL]
CHARLES H. ROBINSON.	[SEAL]

Lease of D. & R. G.
to Rio Grande
Western attached
to foregoing Lease.

two arbitrators or appraisers, and notice thereof be served upon each of the parties. All the arbitrators and appraisers shall be disinterested persons, and notice of appointment shall not be valid unless accompanied by the assent in writing of the person selected or appointed to act as arbitrator or appraiser. In case the two arbitrators or appraisers appointed by the parties shall fail and omit to select and appoint a third, and serve notice thereof as above provided, within the time prescribed, then either party may, on one week's notice to the other, and to the arbitrators or appraisers, apply to a judge of any United States Court of competent jurisdiction for the appointment of a third arbitrator or appraiser, provided the party first receiving notice of such application shall not give notice of a similar application, on its own behalf, to the same or any other Court, but if for any reason several applications be pending at the same time, whether in the same or in different Courts, the one first acted on by the Court shall prevail, and the person first appointed by such Court shall be the third arbitrator or appraiser, if such person assent to act as such. The arbitrators or appraisers so appointed shall require the parties to appear before them at a time and place to be fixed by notice of not less than six and not more than fourteen days, and at the appointed time and place they shall proceed with the arbitration or appraisal and summarily hear and determine the questions involved, provided they may adjourn from time to time, and from place to place, as they may deem proper, and ascertain the facts in such manner and by such witnesses as to them may seem meet. Their award shall be in writing and shall be signed by them or a majority of them, or in case of a sole arbitrator, by him alone. Any award so made shall be final and conclusive upon the parties, and the parties hereto covenant and agree to and with each other to abide by, fully observe and perform whatever may by any such award be required, and that each and every such award may be enforced in any Court of law and equity having jurisdiction of the subject matter and over the parties.

Services of all notices and papers under the provisions of this article shall be made by a delivery of a copy thereof to the President or Vice-President, General Manager or Secretary of the party intended to be served; and the date of the delivery of such copy to such officer shall be deemed the day of service; the party so served shall have as many clear days within which to do or perform any act by such notice required, as are in such notice named — that is, in the computation of time, the day of service shall be excluded.

In case any arbitrator or appraiser appointed by the complainant shall die, resign or become incapable to act, then

the remaining or surviving arbitrators or appraisers shall appoint the person nominated by the complainant to fill the vacancy. In case any arbitrator or appraiser appointed by the respondent shall die, resign or become incapable to act, the remaining or surviving arbitrators or appraisers shall appoint the person nominated by the respondent to fill the vacancy; and in case the third arbitrator or appraiser chosen by the two first selected by the complainant and respondent respectively, or appointed by a Court, shall die, resign or become incapable, the vacancy shall be filled in any of the modes herein provided for the selection or appointment of a third arbitrator or appraiser.

Lease of D. & R. G.
to Rio Grande
Western attached
to foregoing Lease.

IN WITNESS WHEREOF, The said The Denver and Rio Grande Railroad Company and the said The Rio Grande Western Railway Company have severally caused their corporate names to be hereunto respectively subscribed and attested by their respective corporate seals, the day and year first above written.

THE DENVER AND RIO GRANDE RAILROAD COMPANY.

By DAVID H. MOFFAT,
President.

Attest:

J. W. GILLULY,
Assistant Secretary.

THE RIO GRANDE WESTERN RAILWAY COMPANY.

By WM. J. PALMER,
President.

Attest:

WM. F. COLTON,
Assistant Secretary.

STATE OF COLORADO, {
ARAPAHOE COUNTY, { ss.

On this 3d day of January, A.D. 1890, before me, a notary public in and for said county in said State, personally appeared David H. Moffat, to me personally known to be the same person who executed the foregoing instrument of writing, and known to me to be the President of the said The Denver and Rio Grande Railroad Company, and acknowledged that he executed the foregoing instrument in writing by order of the Board of Directors of said Company as the free and voluntary act of the said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

Also, personally appeared before me this day, J. W. Gilluly, personally known to me, and known to me to be the

Lease of D. & R. G.
to Rio Grande
Western attached
to foregoing Lease.

Assistant Secretary of said The Denver and Rio Grande Railroad Company, and acknowledged that he, as said Assistant Secretary of said Company, affixed the corporate seal thereof to said instrument.

WITNESS my hand and official seal this 3d day of January, A.D. 1890.

GRANT L. HUDSON,
Notary Public.

My commission expires September 15, 1893.

TERRITORY OF UTAH, }
COUNTY OF SALT LAKE, } ss.

On this ninth (9th) day of January, A.D. 1890, before me, a notary public in and for said county, in said Territory, personally appeared William J. Palmer, to me personally known to be the same person who executed the foregoing instrument of writing and known to me to be the President of the said The Rio Grande Western Railway Company, and acknowledged that he executed the foregoing instrument of writing by order of the Board of Directors of said Company, as the free and voluntary act of said Company, and as his own free and voluntary act, for the uses and purposes therein set forth.

Also, personally appeared before me this day, William F. Colton, personally known to me and known to me to be the Assistant Secretary of said The Rio Grande Western Railway Company, and acknowledged that he, as said Assistant Secretary of said Company, affixed the corporate seal thereof to said instrument.

WITNESS my hand and official seal this ninth (9) day of January, A.D. 1890.

W. M. BRADLEY,
Notary Public.

My commission expires A.D. 1892.

Subscribed and sworn to before me, this eleventh day of November A.D. 1889.
My Commission expires June 6, 1892.

Amendment to
Art. of Inc. R. Co.
Junct. Ry. Co.

DANIEL M. DRAPER,

[SEAL]

Notary Public.

(ENDORSED.)

THE RIO GRANDE JUNCTION RY. CO.

AMENDMENT OF ARTICLES OF INCORPORATION.

DOMESTIC.

Endorsement as to
filing and recording
of foregoing
amendment.

FILED in the office of the Secretary of State, of the State of Colorado, on the 6 day of Feby. A.D. 1890, at 11:30 o'clock, A.M. Recorded in Book 21 Page 153.

JAMES RICE,

Secretary of State.

CERTIFICATE OF PAID UP STOCK
OF
THE RIO GRANDE JUNCTION RAILWAY
COMPANY.

Certificate of Sec'y
of State.

STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

Certificate filed
Nov. 12, 1892.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Paid up Stock of The Rio Grande Junction Railway Company which was filed in this Office the Twelfth day of November A.D. 1892 at 9:40 o'clock A.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Sixteenth day of November A.D. 1892.

E. J. EATON,
Secretary of State.

[SEAL]

Certificate that
entire capital stock
has been fully
paid in.

THE RIO GRANDE JUNCTION RAILWAY COMPANY.

CERTIFICATE OF STOCK PAID IN.

We, the President and Directors of the Rio Grande Junction Railway Company, constituting a majority of the Board of Directors, do hereby certify that the entire capital stock of said company has been fully paid in and is not liable to further assessments.

That said capital stock consists of

20,000 shares at \$100.00 per share \$2,000,000.00

which was paid in as follows,

7 shares were issued for cash, \$700.00
19,993 shares were issued for construction and equip-
ment of its railroad, 1,999,300.00
\$2,000,000.00

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Affidavit of President
as to truth of
foregoing certificate.

E. T. Jeffery, first being duly sworn, on oath does depose and say: that he is the President of the Rio Grande Junction Railway Company; that the foregoing certificate, by him subscribed, is true.

E. T. JEFFERY.

Subscribed and sworn to before me, this 11th day of November, A.D. 1892. Jurat.

JAMES CORREY, JR.,

[SEAL]

Notary Public.

My Commission expires, May 4th 1893.

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Affidavit of four
directors as to same.

J. W. Gilluly E. T. Jeffery J. F. Vaile and E. R. Murphy, severally being sworn, each for himself deposes and says: that he is a director of The Rio Grande Junction Railway Company; that the foregoing certificate of stock paid in, by him subscribed, is true.

J. W. GILLULY.

E. T. JEFFERY.

J. F. VAILE.

E. R. MURPHY.

Subscribed and sworn to before me this 11th day of November, A.D. 1892. Jurat.

JAMES CORREY, JR.,

[SEAL]

Notary Public.

My Commission expires, May 4th 1893.

For endorsement on foregoing certificate, see next page.

The C. M. Ry. Co.

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Endorsement as to
filing and recording
of foregoing
certificate.

(ENDORSED.)

CERTIFICATE PAID-UP STOCK

OF

THE RIO GRANDE JUNCTION COMPANY.

DOMESTIC.

FILED in the office of the Secretary of State, of the State
of Colorado, on the 12th day of November A.D. 1892, at 9:40
o'clock, A M.

Recorded in Book Page

E. J. EATON,
Secretary of State.

Fees, \$1.00. Pd.

ISSUES OF CAPITAL STOCK
OF
**THE RIO GRANDE JUNCTION RAILWAY
COMPANY.**

Date.	To Whom.	No. Shares.	Par Value.	Issued for.
March 31, 1890,	Link Const. Co.	5,250	\$525,000.	Construction.
May 22, 1891,	L. M. Cuthbert,	1	100.	Cash.
"	S. T. Smith,	1	100.	"
"	J. W. Gillully,	1	100.	"
"	E. R. Murphy,	1	100.	"
"	C. E. Noble,	1	100.	"
"	H. Collbran,	1	100.	"
"	Jno. Sloane,	1	100.	"
"	Link Const. Co.	14,743	1,474,300.	Construction
Total,		20,000	\$2,000,000	

For agreements with the Link Construction Company under which the above named shares were issued, see *post* pp. 887 and 896.

FIRST MORTGAGE

OF

THE RIO GRANDE JUNCTION RAILWAY COMPANY.

DATED DECEMBER 1ST, 1889.

Dec. 1, 1889.

Parties.

Corporate purposes
and powers.

THIS INDENTURE, made this the first day of December, Anno Domini one thousand eight hundred and eighty-nine, between the RIO GRANDE JUNCTION RAILWAY COMPANY, a corporation created by and existing under the laws of the State of Colorado, hereinafter named and designated the "Railway Company," party of the first part, and the CENTRAL TRUST COMPANY OF NEW YORK, a corporation created by and existing under the laws of the State of New York, hereinafter named and designated the "Trustee," party of the second part, WITNESSETH:

WHEREAS, the Rio Grande Junction Railway Company was duly incorporated on or about the 25th day of June, A.D. 1889, under the laws of the State of Colorado, for the purpose of constructing, equipping, operating and maintaining a line or lines of railroad, with single and double tracks and side-tracks, and telegraph lines in connection therewith, and to acquire by purchase, or otherwise, rights of way and real estate necessary to the business of said Company, and to erect or purchase improvements thereon at pleasure, and to mortgage or lease the whole or any part of such railroad, with the improvements thereon, at pleasure, and to have and enjoy such powers as were then or thereafter might be given by the laws of the State of Colorado to railroad corporations therein; and to establish, maintain and conduct an express business in, upon and along said line or lines of railroad, and any line or lines of railroad, or stages, connecting therewith; to purchase, acquire, own, hold and dispose of stocks and bonds of other railroads or construction companies in the State of Colorado; to purchase, take, hold, sell and convey real property, agricultural, timber, mineral or other lands,

coal or other mines, deposits or quarries, or other property, along, upon or adjacent to the route of any of the lines of railroad to be constructed by said Railway Company, if the same should be deemed beneficial or necessary to the interests of said Company; and if deemed useful for the promotion of such interests, to lease, use, operate, manage and control any such lands, mines, deposits, quarries or other property, and to borrow money and execute and issue its notes, bonds or other securities therefor; to mortgage its property and franchises as security for such bonds or other obligations; and to exercise all such incidental and necessary powers in addition to those named in its articles of association as should be necessary, requisite or proper to effectuate and accomplish the objects aforesaid; and

First Mortgage
R. G. Junct. Ry. Co.

WHEREAS, said Railway Company was organized to construct a line of railway as follows: from Rifle Creek, in Garfield County, State of Colorado, following the valley of the Grand River in said State of Colorado in a southwesterly direction to a point on the Denver and Rio Grande Railroad, at the City of Grand Junction, County of Mesa, State of Colorado, a distance of sixty-four (64) miles, more or less; and

Authorized line
of railroad.

WHEREAS, at a meeting of the stockholders held in accordance with the statutes of the State of Colorado in such cases made and provided, and in accordance with the by-laws of said Railway Company, the Board of Directors of said Railway Company has been duly authorized and directed by a vote of such stockholders to issue the bonds of said Company not exceeding in the aggregate the sum of two million dollars (\$2,000,000), to consist of two thousand (2,000) bonds of the denomination of one thousand dollars (\$1,000) each, which said bonds are to be payable in gold coin of the United States of or equal to the present standard, with interest thereon in like gold coin at the rate of five per cent. per annum, payable semi-annually; and

Directors directed
by stockholders to
issue \$2,000,000 of
five per cent. gold
bonds.

WHEREAS, the Denver and Rio Grande Railroad Company and the Colorado Midland Railway Company, respectively owning and controlling lines of railroad connecting with the line of railway of said party of the first part, have, upon good consideration, agreed to jointly and severally guarantee the payment of the bonds of said party of the first part, to an

Agreement of
D. & R. G. and
C. M. to guarantee
said bonds.

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amount not exceeding two million dollars (\$2,000,000), of principal, together with the interest upon said bonds as the same becomes due, said bonds being substantially in the form following, to wit :

Form of bond.

UNITED STATES OF AMERICA.

STATE OF COLORADO.

**THE RIO GRANDE JUNCTION RAILWAY
COMPANY.**

**FIRST MORTGAGE FIVE PER CENT. FIFTY YEARS GOLD
BOND.**

Total Authorized Issue, \$2,000,000.00.

No.

\$1,000.00

FOR VALUE RECEIVED, the Rio Grande Junction Railway Company, a corporation of the State of Colorado, promises to pay to the bearer of this bond, or if registered, to the registered owner thereof, at its agency in the City of New York, on the first day of December, nineteen hundred and thirty-nine, ONE THOUSAND DOLLARS, in gold coin of the United States, of or equal to the present standard, with interest thereon in like gold coin at the rate of five per cent. per annum, payable at said agency, semi-annually, on the first days of June and December of each year, upon presentation and surrender of the annexed interest coupons as they severally become due. This bond is one of a series of mortgage bonds, each of the denomination of one thousand dollars, numbered consecutively from 1 to 2,000 inclusive. The holder hereof is entitled to the security of a mortgage or deed of trust, dated December first, 1889, executed by the said Railway Company to the Central Trust Company of New York as Trustee, and duly recorded and conveying to said Trustee all of the railway property and franchises of said Railway Company, as specified in said mortgage or deed of trust, belonging or appertaining to so much of its main line of railway as lies, or shall hereafter be constructed, between a point at or near the mouth of Rifle Creek on the Grand River, Garfield County, Colorado, and a point within

or near the station-grounds or yard of the Denver and Rio Grande Railroad Company in the City of Grand Junction, Mesa County, Colorado, to which mortgage or deed of trust reference is hereby made for a description of the property and franchises mortgaged and the terms and conditions upon which this bond is issued and secured.

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If default shall be made in the payment of any semi-annual instalment of interest, when the same shall become due and be demanded, and such default shall continue for six months after such demand, the principal of this bond shall become due and payable in the manner provided in said mortgage or deed of trust. Said Railway Company hereby waives the benefit of any extension, stay or appraisement laws now existing, or that may hereafter exist. This bond shall pass by delivery unless registered, and if registered, by transfer on the books of said Railway Company at its agency in the City of New York. If registered, no transfer, except on said books, shall be valid unless the last transfer shall have been to bearer, which shall restore transferability by delivery, but this bond shall continue subject to successive registrations and transfers to a party named, or to bearer, as aforesaid, at the option of each holder. This bond shall not become obligatory upon said Railway Company until the certificate indorsed hereon shall be signed by said Trustee.

IN WITNESS WHEREOF, the said the Rio Grande Junction Railway Company has caused its corporate seal to be affixed hereto and attested by its Secretary, and this bond to be subscribed by its President this day of December, 1889, and the annexed interest coupons to be executed with the engraved signature of its Treasurer.

THE RIO GRANDE JUNCTION RAILWAY COMPANY.

By

President.

Attest :

Secretary.

First Mortgage
R. G. Junct. Ry. Co.

[FORM OF EACH INTEREST COUPON.]

"\$25.00.

"The Rio Grande Junction Railway Company will pay the bearer, at its fiscal agency in the City of New York, twenty-five dollars, in gold coin of the United States of America, on the first day of _____, being six months' interest on its Bond No.

Treasurer."

[FORM OF TRUSTEE'S CERTIFICATE.]

"The Central Trust Company of New York hereby certifies that the within bond is one of a series of two thousand bonds, issued in conformity with a mortgage or deed of trust to secure the same, dated December _____, A.D. 1889.

CENTRAL TRUST COMPANY OF NEW YORK,

Trustee."

[FORM OF GUARANTEE.]

"FOR VALUE RECEIVED, the Denver and Rio Grande Railroad Company and the Colorado Midland Railway Company hereby jointly and severally guarantee the payment of the principal and interest of the within bond, according to the tenor thereof.

IN WITNESS WHEREOF, the Denver and Rio Grande Railroad Company and the Colorado Midland Railway Company have, respectively, caused their corporate seals to be hereto affixed, and attested by their Secretaries, and this obligation to be signed by their respective Presidents this _____ day of December, 1889.

THE DENVER AND RIO GRANDE RAILROAD COMPANY.

By

President.

Attest :

Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY,

First Mortgage
R. G. Junct. Ry. Co.

By

President.

Attest:

Secretary.

AND WHEREAS, the Board of Directors of said Railway Company has been duly authorized by a vote of the stockholders of said Railway Company, at a meeting held in accordance with the statutes of the State of Colorado in such cases made and provided, and in accordance with the by-laws of said Railway Company, to secure the payment of said bonds and the interest thereon by the execution of this mortgage or deed of trust; and

Directors authorized
by stockholders to
secure said bonds
by this mortgage.

WHEREAS, the Board of Directors of said Railway Company has directed the execution of said bonds and this mortgage to secure the same;

Authorization by
directors of
execution of bonds
and mortgage.

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Rio Grande Junction Railway Company, party of the first part, for and in consideration of the premises, and of the sum of one dollar to it duly paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the equal payment of the principal and interest of the bonds aforesaid at any time outstanding, and the fulfilment of the covenants herein-after contained, hath granted, bargained, sold, aliened, remised, released, conveyed and confirmed, assigned, transferred and set over, and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm, assign, transfer and set over, unto the said party hereto of the second part, and its successors and assigns, all the property, real, personal and mixed, and franchises of the said the Rio Grande Junction Railway Company, of every kind and description now owned, or hereafter to be acquired, belonging or appertaining to its main line of railroad now owned, or hereafter to be constructed, extending from the mouth of Rifle Creek, in Garfield County, State of Colorado, following the valley of the Grand River, in said State of Colorado, in

Granting clause.

Description of
property mortgaged

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a southwesterly direction, to a point on the Denver and Rio Grande Railroad at the City of Grand Junction, County of Mesa, State of Colorado, a distance of sixty-four (64) miles, more or less; Together with its main line of railway along and upon the route hereinabove described; and all its right, title and interest of, in and to the telegraph line on and along the same, as such railway and telegraph line has been or hereafter may be constructed or completed or been located and partially constructed and built; together with its lands, tenements and hereditaments, acquired or appropriated, for the purpose of a right of way for said main line of railway; and all the easements and appurtenances thereunto belonging, or in any wise appertaining; and all the railways, side-tracks, switches and spurs, ways and rights of way, depot-grounds, tracks, bridges, viaducts, culverts, fences and other structures, depots, water stations, station-houses, engine-houses, car-houses, wood-houses, ware-houses, machine-shops, work-shops, superstructures, erections and fixtures; all locomotives, tenders, cars and other rolling stock or equipment, and all rails, ties, chairs and machinery, tools, implements, fuel and material whatsoever, which the said Railway Company hath acquired, or shall acquire, for or in respect of the locating, constructing, operating, renewing, replacing, repairing and maintaining said main line of railway and telegraph line, or any part thereof, or convenient or necessary for use for the purposes of the same, or in connection therewith; together with all betterments, additions, improvements, repairs, renewals and replacements made to, on or upon said main line of railway and telegraph line, or any part or portion thereof; all corporate franchises of said railway of any nature relating thereto, including the rights, powers and franchises granted to and conferred upon the said Railway Company, to survey, locate, construct, maintain, use and operate said railway and telegraph line on or along the route mentioned in its certificate of incorporation, and hereinabove described; together with all and singular the endowments, income and advantages, tenements and hereditaments and appurtenances to the above railway and telegraph line belonging, or in any wise appertaining; and the reversion or reversions, remainder and remainders, tolls, rents, issues and profits thereof, and all of the estate, right,

title, property, possession, claim and demand whatsoever, as well at law as in equity, present or future, of the said Railway Company of, in and to the same, and every part of the same, and every parcel thereof, with appurtenances; all books, maps, papers, vouchers, documents, receipts, outstanding claims and dues relating to said railway, or the business thereof.

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TO HAVE AND TO HOLD the above described railway property and premises, lands, rights, powers, franchises and appurtenances, books, maps, papers and other property, unto the said Trustee and assigns to the only proper use and behoof of the said Trustee and assigns, in trust, for the equal *pro rata* benefit and security of all persons and parties, corporate bodies and partnership firms, who may hold any of the bonds to be issued hereunder, in conformity with the provisions hereof or hereinafter contained, and outstanding at any time hereafter, without any discrimination, preference or priority of any one bond over another, by reason of priority in time of issue or negotiation thereof, date or dates of maturity, with all the powers and upon the terms and conditions and upon the trusts and for the purposes hereinafter reserved, created, declared, expressed and contained, as follows:

Habendum clause.

ARTICLE I.—The bonds to be issued under and secured by these presents shall be used only for the following purposes, to wit: The purchase and acquisition of lands and rights of way for a railroad and telegraph line, and the payment of all expenses connected therewith; the construction and completion of all graduation and masonry required upon said line of railway; the building of bridges, drains, culverts and viaducts; the procuring and laying down all ties and rails; the building and completion of all necessary depot buildings, engine-houses, freight-houses, car-houses, warehouses, machine-shops, and other superstructures and erections, required for the operation and maintenance of the said railway; the construction of a telegraph line along and adjacent to said line of railway; the procurement of necessary rolling stock and equipment, and any expenses incident to the accomplishment of the foregoing purposes.

The purposes for which said bonds may be used.

The Trustee is hereby authorized and required to countersign and deliver forthwith to the party of the first part,

Trustee to deliver to Ry. Co. \$1,750,000 of said bonds immediately, and the rest on request of directors

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R. G. Junct. Ry. Co.**

or to its order, one million seven hundred and fifty thousand dollars (\$1,750,000) of the bonds secured hereby; the residue of the total issue of bonds secured hereby, or any part thereof, are to be countersigned and delivered by the Trustee to the party of the first part whenever and as often as requested by a resolution of the Board of Directors of the party of the first part.

**Possession of
mortgagor until
default.**

ARTICLE II.—Until default shall be made by the said Railway Company, its successors or assigns, in the payment of interest on said bonds, or on some one or more of them, or of some part of such interest, as the same shall from time to time become and be due and payable; or in the payment of the principal of said bonds or of some one or more of them, or of some part of such principal when and as the same shall become due, or in the due and punctual observance and performance of any one or more of the covenants and agreements herein contained, on the part and behalf of said Railway Company, its successors and assigns, to be kept and performed, the said Railway Company, its successors and assigns, shall be suffered and permitted to have the actual possession of the railway property and premises hereinbefore described, and of the whole thereof, to use and employ the same and every part thereof, and to exercise and enjoy all the rights and franchises appertaining thereto, and to collect, receive and use the tolls, incomes, rents, issues and profits thereto, in any manner, which will not impair the lien created by these presents.

**Covenants of
Ry. Co.**

ARTICLE III.—And the said Railway Company, in consideration of the premises, covenants, promises and agrees:

**To pay all
taxes, assessments
and liens.**

1. That having possession as aforesaid, it shall and will well and truly pay off and discharge, or cause to be paid off and discharged, each and every tax, assessment or other liability and governmental charge, which may, from time to time, be lawfully levied or imposed by competent authority upon the said railway property and premises, or upon any part thereof, the lien whereof might or could be held to be superior to the lien of these presents, so that the priority of these presents shall at all times be duly maintained and preserved. And the Railway Company shall not

and will not suffer any matter or thing whatsoever whereby the lien hereof or the priority thereof might or could be impaired, until the bonds hereby secured with all interest accrued thereon shall be fully paid and satisfied.

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2. That having possession as aforesaid, it shall and will at all times keep insured its rolling-stock, tools and machinery, buildings, bridges or other structures, erected or to be erected, on the premises, and all other property provided for use in connection with the railway herein described, usually insured by railway companies, and in the same manner and to the same extent, and will, whenever required so to do by the Trustee, assign to it the policies of insurance.

To keep mortgaged
property insured.

In case any insurance money shall be paid under such policy to the Trustee, the same may be used and applied (unless the Company be in default hereunder) for the purpose of reconstructing, repairing or restoring any part of said mortgaged premises, or to the improvement thereof; and the Trustee shall, upon demand of the Company, pay out any such insurance moneys received by it for the purposes aforesaid, upon the verified certificate of the President or Vice-President of the company that a like amount of money has been so applied, which certificates shall be conclusive evidence to the Trustee as to the proper application of such moneys; provided, however, that such moneys shall be held by the Trustee as a further security hereunder until the same shall be so applied.

Provision for
application of
insurance money.

3. That it shall not and will not issue, negotiate, sell or otherwise dispose of the bonds to be issued hereunder in any manner inconsistent with the provisions of these presents, and its agreements in that behalf herein contained, and that issuing, selling, negotiating, or otherwise disposing of its said bonds, from time to time, it shall and will well and truly apply, or cause to be applied, the same, or the proceeds thereof, to and for no purposes other than those hereby contemplated as aforesaid.

Not to issue or
dispose of its bonds
contrary to terms
of mortgage.

4. That it shall and will, at all times hereafter, and as long as any bond or bonds to be issued hereunder shall be outstanding and unpaid, keep and maintain an agency in the City of New York, and that at such agency it shall and will keep a book or books, to be known as the "Regis-

To keep an agency
in City of New York
and a book
called "Register
of Bonds."

First Mortgage
R. G. Junct. Ry. Co.

ter of Bonds," wherein shall be entered the names and residences of all persons holding any one or more of such bonds, who may elect to avail themselves thereof, and of the benefits to be therefrom derived, as hereinafter provided, together with the number, date and amount of the bond or bonds held by any such person or persons, the date of such registry, when, where and at what rate interest will be payable on such registered bond, and if such interest is made payable to such registered owner or owners, his and their order only, in manner hereinafter provided, a memorandum thereof, and that keeping such register, the same or transcripts thereof, duly authenticated, shall at all reasonable times be open to the inspection of the said Trustee, and each and every holder of any registered bond or bonds issued hereunder; and that on the request in writing of said Trustee, or holders of bonds issued hereunder to an amount not less than ten per cent. of the total amount outstanding at the time of such request, it shall and will, within a reasonable time thereafter, and at least ten days prior to any meeting of bondholders hereunder, furnish to the Trustee a transcript thereof, provided that said Company shall not be required to furnish such transcript oftener than once in six months.

To pay the principal
and interest of the
bonds, without
deduction for taxes
under any present
or future laws.

5. That it shall and will well and truly pay, or cause to be paid, to the holders of the bonds to be issued hereunder, as hereinbefore stated, or of such of the said bonds as shall from time to time be outstanding and secured hereby, and every one of them, the principal and interest to grow due thereon respectively, at the times, at the rate, and in the manner mentioned therein and the coupons thereto belonging, according to the true intent and meaning thereof, and without deduction from either said principal or interest for any tax or taxes, which by present or future laws of the United States or the State of Colorado, or the ordinance of any municipality thereof, may be payable for or in respect of the said principal or interest for national, state or municipal purposes; the Railway Company hereby agreeing to pay any such tax or taxes which it may now or hereafter be required by any such law to retain therefrom.

Not to take
advantage of any
stay or extension law.

And in case of default of such payment by said Railway Company from any cause whatever, the Railway Company,

for the consideration in said bonds mentioned, further hereby covenants, promises and agrees, that it shall not and will not at any time hereafter insist on, or plead in any manner whatever, claim, or take the benefit or advantage of any stay or extension law, which may now or at any time hereafter be in force, in any locality where the railway property and premises hereby conveyed or intended so to be, or any part thereof, may or shall be situate; or claim, take, or insist on the benefit or advantage to be derived from any law, now or hereafter in force, as aforesaid, providing for the valuation of appraisement of said railway property or premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to the provisions hereinafter contained, or the decree of any court of competent jurisdiction; or after any such sale or sales, claim or exercise any right which it may now or hereafter have, by Statute enacted by the Legislature of the State of Colorado, to redeem the property so sold, or any part thereof; and said Railway Company hereby expressly waives all benefit and advantages that it might or could derive by virtue of any such law or laws and agrees not to hinder, delay or impede the execution by said Trustee of the powers of entry and sale hereinafter conferred upon, granted and delegated to it, but to suffer and permit the execution of such powers, as if such law or laws had not been made or enacted.

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R. G. Junct. Ry. Co.

Or of any
appraisement law.

Or redemption law.

The Ry. Co. waiving
the benefit of all
such laws.

6. Further, that at all times until said bonds, with interest, shall be fully paid, the Railway Company will permit the Trustee, its agents, clerks or attorneys, for that purpose to be duly authorized, fully to inspect all the books of account of the Company, together with its books, reports, memoranda, or other papers, and to take such extracts therefrom as may be deemed expedient to fully report thereon, with convenient details.

To permit Trustee
to inspect its books
and papers.

7. And the said Railway Company further covenants, promises and agrees to and with the said Trustee, its successor or successors in this trust, on behalf and for the benefit of the bondholders intended to be secured hereby, that it shall and will, from time to time, and at all times hereafter, upon reasonable request, make, do, execute, acknowledge and deliver all such further acts, deeds, conveyances and assurances in the law for the better carrying out

Covenant of further
assurance.

First Mortgage
R. G. Junct. Ry. Co.

To furnish once a year on request an inventory of movable property also copies of annual reports and of all laws and judicial decisions affecting the Co.

On default continued for six months, Trustee may enter and take possession.

the purposes hereof, and assuring unto the said Trustee, its successor or successors in the trust hereby created, upon the trusts and for the purposes herein expressed or intended, all and singular the lands, premises, property, railways, equipment and appurtenances, rights, interests and effects hereby conveyed in trust or agreed or purporting or intended so to be whether now owned or possessed by or vested in the said Railway Company, or subsequently to be acquired by or vested in it, or which it claims to own and be possessed of, and all other property and things whatsoever, which may be hereafter acquired, in aid of or by way of substitute for, or for use for the purposes of the same or any part thereof, and all franchises and claims to franchises now held, or hereafter acquired, relating thereto, as by the Trustee or bondholders, or by counsel learned in the law, shall be reasonably desired, devised, advised, or required; and the said Railway Company shall and will furnish to the said Trustee from time to time, but not oftener than once in each year, upon their reasonable request, in writing, a full and true inventory of all the movable property appertaining to the said railway, and the operation thereof, which is transferred or agreed or intended to be transferred by this indenture, and also copies of the annual reports, and of all laws affecting the Company, and judicial decisions affecting its railway and franchises; but no default to demand or to furnish such inventory shall impair the operation of this indenture upon any or all of the property agreed to be transferred, or intended so to be; and also to make and execute, under its corporate seal, acknowledge and deliver all such further deeds, conveyances and assurances in the law, for the better vesting in and assuring to said Trustee or the purchaser or purchasers at any sale to be made by virtue hereof, as herein provided, his or their grantees or their assigns, the railway property and premises, rights, powers, privileges and franchises so sold.

ARTICLE IV.—In case default shall be made by said Railway Company in the payment of any interest on any of the bonds which may at any time have been issued and be outstanding and secured by these presents according to the tenor and effect of such bonds, and the coupons thereto annexed, and if such default in the payment of such inter-

est shall continue for the period of six months, or in case default shall be made by said Railway Company in the payment of the principal of any of such bonds when and as the same, according to the terms thereof, shall mature; or in case default shall be made by said Railway Company in the payment of any tax, assessment, or other governmental or municipal charge lawfully levied and imposed upon the said railway property and premises, or any part thereof, and such default shall continue for the period of six months after such tax, assessment or other governmental or municipal charge shall have become due and payable; or in case default shall be made by said Railway Company in keeping insured its rolling stock, tools, machinery, buildings and other structures, as aforesaid, and such default continue for the period of three months after notice in writing thereof shall have been given by the Trustee, or any of the bondholders secured hereby to the Railway Company; or in case said Railway Company shall make default in the due observance and performance of its covenant of further assurance, or any other of its covenants, promises and agreements herein contained, and either of such defaults continue for the period of six months after the Trustee shall have requested the Railway Company to perform or observe the same, then, and in each and every such case of default continued as aforesaid, it shall be lawful for said Trustee personally, or by its agent or agents, attorney or attorneys, to enter into and upon all and singular the railway property and premises, lands, rights, interests and franchises hereby conveyed or intended so to be, and each and every part thereof, and to exclude the said Railway Company, its agents and servants, wholly therefrom, and having and holding the same to use and operate, manage and control said railway, regulate the tolls for the transportation of passengers and freight thereon, and conduct the business thereof, either personally or by its superintendent, managers, receivers, agents and servants or attorneys, to the best advantage of the interests as well as of the public as of the holders of bonds secured hereby, in accordance with law and any statute relating to said railway or any part thereof, or to the operation thereof; and upon such entry it shall be lawful for the Trustee from time to time to insure or keep in-

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sured, at the expense of the trust estate, the rolling-stock, tools and machinery, and other property, buildings, bridges and structures erected or provided for use in connection with said railway, and whereof it shall become possessed as aforesaid in the same manner and to the same extent as is usual with railway companies; and likewise to make from time to time, at the expense of the trust estate, all necessary or proper repairs, renewals and replacements, and useful alterations, additions, betterments and improvements, thereto and thereon, as well in respect of the rolling stock or equipments as in respect of the railway and appurtenances and other subject matters as may seem to it judicious; and to collect and receive all tolls, freights, incomes, rents, issues and profits of the same and every part thereof, and after deducting the expenses of operating said railway and conducting the business thereof, and of all repairs, renewals, replacements, alterations, additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and other proper charges upon the said premises and property, or any part thereof, as well as a just and reasonable compensation for its own services and compensation to all agents, servants, clerks and other employees by it properly engaged and employed, the said Trustee shall apply the moneys arising as aforesaid, to the payment of the interest in arrear (if any), or which shall after such entry become due and payable on the bonds outstanding and secured hereby, in the order in which such interest shall become due, ratably to the persons or parties holding the coupons therefor, or entitled to receive the same, without any discrimination or preference between them on account of the date or dates of maturity of such bonds or the times of their actual issue, but according to the date in such bonds provided.

On default in interest continued for 6 months, Trustee may declare principal due, and shall do so on written request of one-fourth of bonds.

ARTICLE V.—In case default shall be made by said Railway Company in the payment of any interest on any of the bonds which may at any time have been issued and be outstanding, and secured by these presents according to the tenor and effect of such bonds, and the coupons thereto annexed, and if such default in the payment of such interest shall continue for the period of six months after maturity and demand for such payment, then, and in such

case of default continued as aforesaid, the Trustee may, and upon the request in writing of one-fourth in interest of the bonds hereby secured and then outstanding shall, declare the principal of all of said bonds immediately due and payable, and thereupon the said principal shall become and be immediately due and payable, anything herein or in said bonds contained to the contrary thereof in any wise notwithstanding.

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ARTICLE VI.—In case default shall be made by the said Railway Company in the payment of the principal of any of the said bonds, when the same shall become and be due as therein or hereinbefore provided, and in each such case of default, it shall be lawful for the said Trustee, after entry as aforesaid, or other entry, or without any entry, personally or by its attorneys, or attorney, agents or agent, to sell and dispose of all and singular the railway property and premises, rights, franchises and interests, lands and appurtenances, hereby conveyed or intended so to be, or from time to time as they shall deem proper, of so much thereof as may be sold separately without material injury to the parties interested, and be sufficient to pay the amount due on such bonds then outstanding, for principal and interest, according to the terms thereof, together with the costs and expenses of such sale, and of all right, title and interest, claim and demand whatsoever, benefit, equity of redemption and statutory right to redeem of the said Railway Company, its successors and assigns, of, in and to the same, or so much thereof as may be sold, and every part thereof, at public auction at such place in the City of New York, or on the premises or any part thereof, and at such time, and upon such terms as may be specified in the notice of sale to be given as hereinafter provided, for the highest and best price the same will bring in cash.

Power of sale on
default.

Preparatory to such sale the said Trustee shall give notice of the time and place, when and where, and the terms upon which the same is to be made, and containing a description of the property to be sold by advertisement thereof in any newspaper at that time published in the City of Denver, and in one newspaper published in the City of New York, once a week for six successive weeks; and upon any sale or sales under this instrument the said Trustee is hereby

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Waiver by Ry. Co.
of all valuation stay,
appraisement,
extension and
redemption laws.

Effect of sale.

Application of
proceeds of sale.

empowered to make, execute and deliver to the purchaser or purchasers at any such sale a good and sufficient deed, or good and sufficient deeds, of conveyance, for the railway property and franchises sold. In case of any sale or sales by virtue of any of the provisions of this instrument, the said Railway Company hereby expressly and absolutely agrees to waive, and hereby irrevocably waives the benefit or advantage of any and all valuation, stay, appraisement or extension laws, and any statutory right to redeem now existing, or which may hereafter be in force, in the State wherein the property to be sold under this instrument or any part thereof, may at the time of the sale be situate, or where the sale may take place, which, but for this provision, agreement and waiver might be operative in respect to any such sale, or might be availed of to prevent or postpone an absolute or immediate sale under the provisions of this instrument, or to redeem after any sale the property sold thereat or any part thereof; and it is likewise expressly declared that any sale or sales made by said Trustee under or by virtue of this instrument, when completed, shall operate to divest all title, rights and interest, claims and demands whatsoever both at law and in equity of said Railway Company, of, in and to the rights, property, powers, privileges and franchises sold, and shall be a perpetual bar, both at law and in equity, against the said Railway Company, its successors and assigns, and any and all persons whomsoever claiming or to claim the railroad property, rights, powers, privileges and franchises sold or any part or parcel thereof, by, from, through or under it, the said Railway Company, its successors and assigns, or any of them. And the said Trustee shall apply the proceeds or avails of any sale to be made under the provisions of this instrument, and the purchase money paid thereon, after deducting therefrom just allowances for all expenses connected therewith, including attorney and counsel fees, as well as any and all advances, expenses and liabilities which may have been made or incurred by said Trustee in using, operating, maintaining and preserving said railroad property and premises, or in carrying on and managing the business for the period the same may have been in the said Trustee's possession, or in arranging for making and com-

pleting the sale and payments for taxes, assessments or other charges or liens prior to the lien of these presents, if any such there shall then be, and the said railway property and premises, or any part thereof, shall not have been sold subject thereto, as well as just and reasonable compensation for the said Trustee's own services, to the payment of the principal of such of said bonds as may be at that time outstanding, and of the interest which shall have accrued upon the said principal up to that time, according to the tenor thereof, without discrimination or preference as between principal and interest, but ratably, to the aggregate amount of such principal and accrued interest; it being understood and hereby declared and agreed, that such payment shall be made to the persons holding the bonds and coupons evidencing the right to such principal and interest, without discrimination or preference between them on account of the time of the actual issue of said bonds, and, if after payment in full of all of said bonds, principal and interest, a surplus of the said proceeds of sale shall remain, the said Trustee shall pay over such surplus to the said Railway Company, its successors or assigns, or as any court of competent jurisdiction shall lawfully direct.

First Mortgage
R. G. Junct. Ry. Co.

And it is hereby declared and agreed that the said Trustee may, from time to time, adjourn any sale to be made under the provisions of this instrument, by announcement made at the time and place appointed for such sale, and if so adjourning such sale, may make the same at the time and place to which the same shall be so adjourned, and without further notice thereof.

Adjournments of sale.

And it is further declared and agreed that the receipt of the Trustee shall be a sufficient discharge to the purchaser or purchasers of the property, which shall be sold as aforesaid for his or their purchase money, and that such purchaser or purchasers, his or their heirs, executors or administrators, shall not, after paying such purchase money and receiving such receipt, be liable to see to the application of such purchase money upon or for the trusts or purposes of these presents or be in any manner whatsoever answerable for any loss, misapplication, or non-application of any such purchase money, or any part thereof.

Purchaser not liable
for application of
purchase money.

And it is further agreed that no part of the premises

Property only to
be sold under
proceedings
in equity.

First Mortgage
R. G. Junct. Ry. Co.

hereby mortgaged or intended so to be shall be sold under proceedings at law, by the holder or holders of all or any of the bonds intended to be hereby secured, it being the intention and agreement of the parties for the better securing the largest possible price for the mortgaged premises in the event of a sale thereof, that the same shall only be sold in the manner herein provided or under proper proceedings in a court of equity for the foreclosure of this mortgage.

Provisions as to
Trustee's bidding
at sale.

ARTICLE VII.—It is hereby mutually agreed that at any public sale of the railway property, premises, rights, privileges and franchises hereinbefore conveyed, made by virtue of the powers herein granted, or by judicial authority, for the purpose of enforcing the lien of these presents, the Trustee, under these presents for the time being, may in its discretion, and not otherwise, bid for, and if the same be obtainable at the price hereafter mentioned, purchase and acquire the property so offered for sale, in behalf of all the holders of bonds secured by this instrument, which shall then be outstanding, in proportion to the amount of said bonds, and of the overdue coupons thereunto belonging, by them respectively held: *Provided, however,* That nothing herein contained shall authorize the said Trustee to bid, on behalf of the holders of said bonds and coupons, a sum exceeding the whole amount of said bonds then outstanding, with the interest accrued thereon, according to the tenor thereof, and the costs and expenses of such sale for the entire property then held upon the trusts of this indenture, or any amount reasonably proportionate thereto, for any part of the said property.

Provision for
receiving bonds and
overdue coupons in
payment.

And it is further agreed that the bonds and overdue coupons aforesaid shall be received in payment of the purchase money of any property sold by virtue hereof, as equivalent to so much in cash of the said purchase money as would be distributable and payable thereon.

Provisions for
appointment of
receiver pending
litigation.

ARTICLE VIII.—Upon the filing of a bill in equity or other commencement of judicial proceedings, to enforce the rights of the Trustee and of the bondholders under these presents, or the return of "no property found" upon any execution or decree of any court of record within the State of Colorado for the payment of money, the said Trustee shall be entitled to exercise the right of entry herein con-

ferred, or to the appointment by any court of competent jurisdiction of a receiver or receivers of the property hereby mortgaged, or of the earnings, revenues, rents, issues or profits thereof, pending such proceedings, with such powers as the Court making such appointment shall confer.

First Mortgage
R. G. Junct. Ry. Co.

ARTICLE IX.—No delay or omission of the said Trustee or of the holders of bonds secured hereby in respect of any default, happening and continuing as aforesaid to exercise the rights and powers arising therefrom as hereinbefore provided, shall be held to exhaust or impair such rights and powers, or be construed to be a waiver of such defaults; but it is hereby mutually agreed, as conditions subject whereto the bonds secured hereby are issued and held by each successive holder, that the holders of a majority in interest at any time outstanding may, by an instrument under their hands and seals or resolution adopted at a meeting of such bondholders, waive or instruct the Trustee to waive any default occurring, and the rights accruing therefrom, on such terms and conditions, or without any conditions, as to such majority shall seem proper: *Provided always*, That no such action of the bondholders shall extend to or be taken to affect any subsequent defaults or impair the rights resulting therefrom, unless expressly provided for; and such majority may in like manner, if upon default as hereinbefore provided, the principal of all or any of the bonds hereby secured shall have become or be by said Trustee declared due and payable before the period therein mentioned for the payment thereof shall have expired, waive such default or reverse the action of said Trustee in that default.

Provisions for control
of Trustee by majority
in interest of
bondholders.

ARTICLE X.—It is further covenanted and agreed by and between the parties hereto and the holders of said bonds and interest coupons that when and as the interest coupons annexed to the bonds secured hereby became payable and are paid by the party of the first part or by any person or corporation on its behalf, said interest coupons shall be cancelled. That no purchase or sale of any of the said coupons or interest separate from the bonds from which such coupons have been detached, or on which such interest shall accrue, and no advance or loan upon the same, and no redemption of any coupons or interest by or on behalf

Interest coupons
to be cancelled
when paid.

First Mortgage
R. G. Junct. Ry. Co.

If coupons or bonds
are paid or purchased
by guarantors, they
shall have a lien
therefor on mortgaged
premises after all
outstanding bonds
and coupons have
been satisfied in full.

Provision for
voluntary surrender
by Ry. Co. to Trustee
without default.

of the party of the first part, or the said Companies guaranteeing said bonds, shall, as between the purchasers or assignees of such coupons or interest, and the holders of said bonds, operate as keeping the said coupons or interest alive or in force as a lien upon the mortgaged premises, but all coupons or interest purchased, redeemed or assigned separate from the bonds from which such coupons are detached or on which such interest shall accrue, shall at all times be subordinate in lien to, and be paid only after payment in full of all the bonds issued hereunder, together with the coupons thereto attached and the interest due the holders thereof. It is understood, however, that in case any of such coupons shall be paid or purchased by said guarantors, or in case any of said bonds shall be paid or purchased by the guarantors when the same shall become and be due and payable, then in either such event the holders of such bonds or coupons so paid or purchased shall have a lien upon the mortgaged premises, for the payment thereof, according to their tenor, subordinate, however, to the lien of the holders of all said bonds and coupons not so paid or purchased, so that all bonds and coupons not paid or purchased by the guarantors shall be paid in full out of the mortgaged premises before any payment shall be made upon the bonds and coupons so paid or purchased.

ARTICLE XI.—The Railway Company may at any time hereafter and before the full payment of the bonds secured hereby, and whenever it shall deem it expedient for the better security of the said bonds, although there may not then have occurred any such default as to entitle the said Trustee to enter into possession under article six hereof, surrender and deliver to said Trustee full possession of the whole or any part of said railway property and premises, rolling stock, lands and appurtenances, rights, franchises and interests hereby conveyed or intended so to be, for any term or terms, certain or indefinite. The said Trustee, upon such surrender and delivery, may, at its option, enter into and upon the premises so surrendered and delivered, and take and receive possession thereof, for such term or terms, certain or indefinite, as aforesaid, without prejudice, however, to its rights at any time subsequently to insist upon and maintain such possession, though beyond such

term, whenever it would have been entitled thereto, had no such voluntary surrender been made.

First Mortgage
R. G. Junct. Ry. Co.

And upon the voluntary surrender and delivery of the said railway property and premises, or any part thereof, as herein provided, the said Trustee shall and will during the term or terms for which possession shall be taken, and while said property and premises shall remain in its possession, work, use, manage, control and employ the same, in accordance with the provisions of article six of these presents, and receive the incomes and revenues thereof, and apply the same to the best advantage of all parties in interest.

ARTICLE XII.—And it is hereby expressly further mutually agreed that whenever and as often as any contingency shall arise on which the action of a majority in interest of the holders of bonds secured hereby shall be controlling, or in which the said bondholders have by the provisions hereof any discretionary power or voice, the Trustee hereunder may, and at the written request of the holder or holders of not less than \$500,000 in such bonds, or of the Railway Company, shall call a meeting of the holders of the bonds secured hereby at the time outstanding, in manner hereinafter provided; and until otherwise prescribed by said bondholders, such meetings shall be held at the City of New York, and notice of the objects, time and place of such meeting shall be given by publishing the same in a newspaper of good circulation in the City of New York, twice a week for eight successive weeks (the last publication to take place on the day in such notice mentioned for such meeting), and by depositing in the post-office in the City of New York, at the time or previous to the first publication thereof, a written or printed copy of such notice properly enveloped and directed to each and every owner or owners of any one or more of said bonds standing registered in his or their names, at his or their registered place of residence, with the postage prepaid thereon; and in case the said Trustee shall fail to call such meeting in manner aforesaid within ten days after a request in writing therefor shall have been made by the holder or holders of not less than five hundred thousand dollars (\$500,000) in such bonds, or the President of the Railway Company, or if said Trustee shall have resigned,

Provisions for
meetings of
bondholders when
required.

First Mortgage
R. G. Junct. Ry. Co.

or been removed, or otherwise have become incapacitated, such President or holder or holders of said bonds to the amount aforesaid may call such meeting in manner aforesaid: *Provided further*, that the expense of publishing and giving such notice shall be a liability of said Railway Company hereunder, and may be defrayed, if necessary, out of any trust funds in the hands of said Trustee; and that nothing herein contained shall be held to require the said Trustee to incur any personal liability in the calling and holding of such meeting; and at any meeting a majority in interest of the holders of said bonds outstanding may prescribe and establish such rules and by-laws as they may deem proper for the calling of future similar meetings, and the regulation of proceedings thereof, and alter, repeal or amend the same at pleasure. And it is hereby declared and agreed, that at any meeting so convened, the holders of said bonds shall be competent to exercise in person or by proxy all powers and authorities conferred upon them by these presents, and that a majority in interest shall constitute a quorum for the transaction of any business, provided that less than a quorum may adjourn from time to time, and that each holder of a bond or bonds shall be entitled to one vote for every one thousand dollars (\$1,000) of the principal sum mentioned in his bond or bonds, and that a majority of votes represented shall govern in all cases wherein a majority in interest of all bonds outstanding is not hereby required.

At meetings of
bondholders, proof
of ownership may
be required except
in case of registered
bonds.

And it is hereby declared and provided, that at any meeting of bondholders held in pursuance of the provisions hereof, any bondholder present may require the ownership of bonds by the persons claiming to be such owners to be evidenced by the production of those bonds, excepting in the case of bonds standing registered in the name of such holder, and that whenever, under any of the provisions of this indenture, effect is to be given to the election, act, appointment or assent of a majority, or any specified amount or proportion of the bondholders secured hereby, any person whose interests are to be affected by such action may require that the ownership of such bonds by the person claiming to be such owner, excepting registered bonds, as aforesaid, shall be vouched for by the affidavit of such person, or his duly authorized agent, or attorney, having possession of

the bonds, stating such ownership of the bonds, and giving their numbers, dates and amounts, which affidavit shall be received as *prima facie* evidence of the fact, but subject to question of its verity, and demand for production of the bonds, in any legal proceeding or controversy.

First Mortgage
R. G. Junct. Ry. Co.

And the Trustee or any bondholder attending any such meeting shall have a right to require that any act or resolution of such bondholders, affecting the rights or remedies of, or for the benefit of the bondholders, or the duties of the Trustee or the interests of the trusts hereby created, shall be authenticated by the signature of all the persons assenting thereto, as well as by a minute of the proceedings at any such meeting. But it is understood, and hereby expressly declared and agreed, that no act or resolution of any meeting of bondholders or of the Trustee, nor any act or election of or instrument executed by a majority in interest, shall impair, control or affect the rights, interests or remedies, legal or equitable, of any non-assenting bondholder, except in the particulars and to the extent to which the election or action of a majority in interest of the holders of bonds outstanding at the time is expressly made controlling, by express provisions to such particular effect, contained in this indenture.

Trustee or any
bondholder may
require authentication
of action of
bondholders by
signatures of persons
assenting.

Majority can only
control as provided
by this indenture.

And the term majority in interest, as used in this indenture, shall be held to mean holders having a majority of votes on bonds issued and outstanding for the time being, according to the number of votes to which each holder is entitled as aforesaid, and not a majority of individuals.

Majority means
majority in interest

ARTICLE XIII.—And it is further mutually agreed that the Railway Company keeping a register or registers of bonds issued hereunder as hereinbefore covenanted and agreed, any holder or holders of any of the bonds issued under the provisions hereof may register his or their bond or bonds upon presenting the same, and signing his name or their names upon such register and a transcript therefrom, and that when a bond shall be so registered the person or persons in whose name or names the same shall be registered shall be deemed and regarded as the owner or owners thereof for all purposes, and payment of or on account of the principal sum in such registered bond mentioned shall thereafter be made to such person or persons,

Any bondholder
may register his
bonds.

Effect thereof.

First Mortgage
R. O. Junct. Ry. Co.

his or their order only, and all such payments so made shall be valid and effectual to satisfy and discharge the liability upon such bond to the extent of the sum or sums so paid, provided that such registry may be changed, and the bond so registered be transferred, upon presentation with the written order of the person or persons in whose name or names the same shall stand registered, properly authenticated, to the person or persons whose name or names shall in such written order be contained to that end; and thereafter the person or persons to whom such bond shall have been so transferred as aforesaid shall be held to be the owner or owners thereof with all the incidental rights and powers, and such transfers may be made from time to time as the registered owner or owners of any of such bonds for the time being may direct as aforesaid; and the registered owner or owners shall also have the right to register any of the bonds registered in his or their names, as payable to bearer, in which case the transferability by delivery shall be restored, and the principal thereof be payable to the person presenting the same. But any holder or holders of a bond registered to bearer may again cause such bond to be registered in his name or their names with the same effect as the first registration, and successive registrations, as aforesaid, may be made from time to time as desired.

Negotiability may
be restored by
transfer to bearer.

And thereafter
bonds can be again
registered.

Registered
bondholder may
surrender all his
coupons.

It is further mutually agreed that any registered owner may likewise make such interest on any bond standing registered in his name payable to him or his order only by surrender of all coupons to such bonds annexed and representing the interest to become due thereon, which surrender when certified on such bond as aforesaid shall not in any wise operate as a discharge to the Railway Company of its obligation to pay such interest as in said bonds provided, but payments of such interest shall nevertheless thereafter be made to the person appearing on such registry as the owner thereof, or his order, at the time such interest shall become payable, and any such payment so made shall be valid and effectual to satisfy and discharge the obligation for such interest to the extent of the sum or sums so paid.

Waiver of notice
by mail.

It is further mutually agreed that any holder of any one or more of said bonds failing, omitting or neglecting to register the same in his name as aforesaid, and any regis-

tered owner of any one or more of said bonds failing or omitting to assign a place (to be endorsed on such bond and entered on such registry as his place of residence) where notice by mail of any bondholders' meeting can be served upon him as aforesaid, waives all right to, and service of, notice by mail, and promises and agrees that publication of such notice of any meeting in manner aforesaid, commenced at any time before registry of the bond or bonds held by him, shall be good and sufficient service upon him thereof; and that he shall and will be bound by the action of the said bondholders at any such meeting called as aforesaid, whether he shall have had actual knowledge of the object, time and place thereof in time to attend thereat or not, or no actual knowledge thereof at all.

First Mortgage
R. G. Junct. Ry. Co.

ARTICLE XIV.—The Trustee shall have full power, in its discretion, and upon the written request of the Railway Company, at any time when it shall not be in default in respect of payment of interest upon, or principal of, any outstanding bonds secured hereby, to release from the lien and operation of this trust deed and of the said bonds, unto the Railway Company, or to persons by it designated therefor, any portion or portions of the premises acquired, held or used by the Railway Company for the purpose of stations, depots, shops or other buildings or erections or other uses connected with the maintenance and operation of the railway or any part thereof, or which may have been acquired or held for the supply of gravel, fuel or other materials for the purposes of said railway or any part thereof, which, in the judgment of the Trustee, based upon a resolution of the board of directors of said Railway Company, or upon such other evidence that may be satisfactory to it, shall, at the time of such release, be no longer requisite for use for the purposes for which the same shall have been so acquired or used, nor necessary or expedient to be retained for use in connection with the said railway line, on or along the routes aforesaid, or any of them, and likewise any parts of the original line of track or roadway, and of the depot grounds, buildings or accommodations connected therewith which may have been thrown out of use, and ceased to form a part of the railway, at the time of such release, by reason of straightening or alteration of the line of the road:

Power of Trustee
to release real
estate and restrictions
thereon.

First Mortgage
R. G. Junct. Ry. Co.

Provided always that the power to release given by this article is designed to be exercised only in case of the Railway Company's selling or contracting to sell the property so to be released, because of its being no longer required for the uses or purposes of said railway, and requiring the same to be released in order to give a perfect title to the purchaser or purchasers. And provided further that where such released premises shall have been thrown out of use, or ceased to be required by reason of changes of the line of the road, on or along the routes aforesaid, or any of them, or change of depot grounds, buildings or other accommodations, the substitutes which the Railway Company shall have acquired therefor shall be forthwith conveyed by appropriate deeds to the Trustee upon the trusts and for the purposes of this indenture. And it is further provided that the Trustee shall also have full power to allow the Railway Company, from time to time, to dispose of, according to its discretion, such portion of the machinery, equipments and implements at any time held or acquired for the use of the said road as may have become unfit for such use, provided the same be replaced by new, which shall be conveyed to the Trustee or be otherwise made clearly subject to the operation of these presents.

Trustee may allow
Ry. Co. to dispose
of and replace
machinery, equipment
and implements.

Trustee may employ
counsel, attorneys,
agents and employees.

Whose accounts
shall be open to
inspection by Ry. Co.
or committee or
agent of bondholders
to amount of \$250,000.

Compensation
of Trustee

ARTICLE XV.—The Trustee shall have full power, from time to time, to employ such clerks, agents and assistants as it shall find necessary to enable it to discharge properly the duties devolving upon it under the provisions of this instrument, or manage the trusts hereby created, and shall be authorized to pay such reasonable compensation as it may deem proper to all such counsel, attorneys, agents, clerks, servants and other employees as it may so employ in and about the discharge of its duties hereunder; and it shall allow their accounts and any papers delivered to it by the Railway Company under the provisions hereof to be inspected at all reasonable hours by the properly authorized officer of the Railway Company, or by a committee or other agent, duly thereunto authorized by the holder or holders of bonds secured hereby to an amount not less than two hundred and fifty thousand dollars (\$250,000).

And it is further agreed that said Trustee shall be entitled to such just and reasonable compensation for all

services which may hereafter be rendered by such Trustee in this trust (except in the exercise of the powers of entry and sale, and after voluntary surrender), to be paid by the Railway Company as may be agreed upon between it and the Railway Company, or on failure to agree, as may be fixed by any court of competent jurisdiction.

First Mortgage
R. G. Junct. Ry. Co.

It is further agreed that the just and reasonable expenses of the said Trustee shall be paid by the Railway Company, or out of the income of the property, from time to time as required, and until paid shall be secured hereby, and that the said Trustee shall be entitled to be fully reimbursed in respect thereof before any distribution is made for principal or for interest upon any bonds or coupons secured hereby.

Expenses of Trustee.

And it is further agreed that in case said Trustee shall at any time hereafter exercise the powers of entry hereinbefore conferred upon it, or accept the voluntary surrender of the railway property and premises hereby conveyed, then and in such case it shall be entitled to receive out of the current income such compensation from time to time for its services in regard thereto as may be agreed upon between it and the Railway Company and the holders of a majority in interest of said bonds, or in the absence of such agreement, as any court of competent jurisdiction shall determine. In case the said Trustee shall exercise the powers of sale hereinbefore conferred upon it, then it shall be entitled to receive such compensation for its services in respect thereof as may be proportionate to the number of sales made and the amounts realized thereat, and as the said Trustee and the holder of a majority in interest of the bonds secured hereby and the Railway Company may agree upon, or, in the absence of any such agreement, as any court of competent jurisdiction may determine; provided that the consent of the Railway Company shall be required only in case the proceeds of the sale shall be sufficient to pay in full the principal and interest upon the bonds at the time outstanding; that the said Trustee shall not be answerable for the default or misconduct of any agent or attorney who may be appointed by it in pursuance hereto, if such agent or attorney be selected with reasonable care; or for anything whatsoever in connection with this trust, except wilful misconduct

Provision for
compensation of
Trustee in case of
entry or acceptance
of voluntary
surrender.

Compensation of
Trustee in
case of exercise
of power of sale.

First Mortgage
R. G. Junct. Ry. Co.

or gross negligence; the said Trustee shall not be personally liable for any debts contracted by it, for damages to persons or property carried or injured, or for salaries or non-fulfilment of contracts, during any period while said Trustee shall manage the trust property or premises upon entry or voluntary surrender as aforesaid, but all such debts and liabilities shall be and constitute a first and paramount charge upon the trust funds and property.

Word "Trustee"
to include successors.

It is mutually agreed that the term or words "the Trustee," and "the said Trustee," as used in this indenture, shall be held and construed to mean the Trustee for the time being, whether original or new, and whenever a vacancy shall exist, to mean the continuing Trustee, and such Trustee shall, during such vacancy, be possessed of and be competent to exercise all the powers by these presents granted to the party of the second part.

Trustee may resign
on giving certain
notice.

And it is further mutually agreed that the said Trustee, or any Trustee or Trustees hereafter appointed, may resign and be discharged of the trusts created by these presents by giving notice in writing to the Railway Company and to the bondholders, by publication thereof, at least twice a week, for three successive weeks, in a newspaper published in New York City, at least thirty days before such resignation shall take effect, and upon the due execution of the conveyance hereinafter required. The Trustee may be removed at any time by the holders of a majority in interest of the bonds secured hereby and then outstanding, by the appointment of a new Trustee, in the manner hereinafter provided, in case the Trustee shall resign, die or become incapable or unfit to act. And it is hereby declared and agreed that in case at any time hereafter the said Trustees, or any of them, shall resign, or die, or become incapable or unfit to act in the said trusts, the holders of the bonds secured hereby, acting by a majority in interest, shall be, and they are hereby, authorized and empowered by an instrument or instruments in writing, under their respective hands and seals, duly acknowledged as aforesaid, or by a vote, attested as aforesaid, at a meeting of said bondholders duly convened as herein provided, to appoint a successor or successors to such Trustee, and such successor or successors, when so appointed, shall immedi-

Provision for
removal of Trustee.

Provision for
appointment by
bondholders of new
Trustee in case of
vacancy.

ately, upon its, his or their acceptance of the trust, become vested with all the powers, authorities and estates held or possessed by the Trustee to succeed whom it, he or they shall have been appointed, without any further assurance or conveyance; and thereupon all the powers and authorities hereunder, and all the estate, right, title and interest in the said premises of the Trustees or Trustee who shall have died, become incapable, have resigned, or be removed, shall wholly cease and determine; but nevertheless, the Trustees or Trustee resigning or being removed as aforesaid, shall upon the request in writing of the new Trustee or Trustees, execute and deliver to it, him or them, all such conveyances and other instruments as shall be fit and expedient, for the purpose of assuring to such new Trustee or Trustees the legal estate in the premises: *Provided* that the expense of the preparation and execution of such instruments be defrayed by the Railway Company, or the said new Trustee, or other parties in interest. *And provided further* that nothing herein contained shall be so construed as to deprive any Trustee or his representatives of any right to receive any compensation or reimbursement to which such Trustee may be or have become justly entitled for any services actually rendered or expenses incurred under this instrument; but any such Trustee and his representatives shall at all times have a lien therefor upon all moneys, securities and other trust property herein mentioned.

First Mortgage
R. G. Junct Ry. Co.
Provisions for
transferring trust.

And it is hereby declared and agreed that in case the bondholders shall fail or omit to appoint a new Trustee or Trustees in the manner aforesaid, within sixty days after the death, resignation or removal of any Trustee, the President of the Railway Company shall serve as Trustee, and be subject to all the duties and have all the powers herein or hereby created, granted and conferred upon the Trustees until a majority in interest of the holders of outstanding bonds shall make an appointment in manner aforesaid.

In case bondholders
fail to appoint
a new trustee
within 60 days,
President of Ry. Co.
shall act as trustee
until bondholders
appoint one.

And it is further expressly understood and agreed that all the covenants, stipulations, promises and agreements herein contained by or on behalf of the Railway Company, shall bind and be binding upon its successors and assigns, whether so expressed or not.

Covenants of Ry. Co.
binding on its
successors and
assigns.

First Mortgage
R. G. Junet. Ry. Co.
Defeasance clause.

ARTICLE XVI.—If the Railway Company shall well and truly pay or cause to be paid all bonds to be issued under or entitled to the protection of this deed of trust and the coupons attached thereto, at the times and in the manner therein specified, and shall well and truly keep and perform all the things herein required to be kept and performed by it, according to the true intent and meaning of these presents, then, and in that case, all property, rights and interests hereby conveyed shall revert to the Railway Company, and the estate, right, title and interest of the said Trustee aforesaid shall thereupon cease, determine, and become void; otherwise the same shall be, continue and remain in full force and virtue.

Attesting clause.

IN WITNESS WHEREOF, the parties hereto have caused their respective corporate seals to be hereunto affixed, and the same to be attested by the signatures of their respective Presidents, in pursuance of resolutions of their Boards of Directors and Trustees respectively, the day and year first above written.

THE RIO GRANDE JUNCTION RAILWAY COMPANY.

By

LUCIUS M. CUTHBERT,

[SEAL]

President.

Attest:

E. R. MURPHY,

Secretary.

CENTRAL TRUST COMPANY OF NEW YORK.

By

F. P. OLCOTT,

[SEAL]

President.

Attest:

C. H. P. BABCOCK,

Secretary.

STATE OF COLORADO, }
ARAPAHOE COUNTY, } ss.

First Mortgage
R. G. Junct. Ry. Co.

On this thirteenth day of January, A.D. 1890, before me, a notary public in and for said county in said State, personally appeared Lucius M. Cuthbert; to me personally known to be the same person who executed the foregoing mortgage deed, and known to me to be the President of The Rio Grande Junction Railway Company, and acknowledged that he executed the foregoing mortgage deed by order of the Board of Directors of said Company, as the free and voluntary act of the said Company, and as his free and voluntary act, for the uses and purposes therein set forth.

Acknowledgment
of Ry. Co.

Also personally appeared before me this day Edward R. Murphy, personally known to me, and known to me to be the Secretary of the said the Rio Grande Junction Railway Company, and acknowledged that he, as such Secretary of said Company, affixed the corporate seal thereof to the foregoing instrument.

WITNESS my hand and official seal this the day and year above written.

GRANT L. HUDSON,

[SEAL]

Notary Public.

My commission expires Sept. 15, 1893.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.

Acknowledgment
of Trust Co.

I, Charles Edgar Mills, a Commissioner, &c., duly appointed by the Governor of the State of Colorado to take the acknowledgment and proof of deeds and other instruments to be recorded in said State of Colorado, do hereby certify that Frederic P. Olcott, President, and C. H. P. Babcock, Secretary, who are personally known to me to be such officers and to be the identical persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as the President and Secretary of the Central Trust Company of New York they signed, sealed and delivered the foregoing instrument with the corporate seal of the said Central Trust Company of New York thereto affixed, as the free and voluntary act

First Mortgage
R. G. Junct. Ry. Co.

and deed of the said Company for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 20th day of January, A.D. 1890.

[SEAL] CHARLES EDGAR MILLS,
Commissioner for Colorado in New York,
115 and 117 Broadway,
N.Y. City.

Certificate of filing
and recording in
Garfield County.

STATE OF COLORADO, }
COUNTY OF GARFIELD, } ss.

This instrument was filed for record the 25th day of January, 1890, at 1.50 o'clock P.M., and duly recorded in Book No. 23, at page 179.

THOS. W. LEONARD,
Recorder.

Certificate of filing
and recording in
Mesa County.

STATE OF COLORADO, }
COUNTY OF MESA, } ss.

I hereby certify that this instrument was filed for record in my office January 29th, 1890, at 10 o'clock A.M., and recorded in Book 8, page 247.

A. J. McCUNE,
Recorder.
By FRANK McCLINTOCK,
Deputy.

AGREEMENT

BETWEEN

**THE LINK RAILWAY CONSTRUCTION
COMPANY**

AND

**THE RIO GRANDE JUNCTION RAILWAY
COMPANY**

FOR THE CONSTRUCTION OF THE ROAD OF THE LAST-NAMED
COMPANY AND THE PAYMENT THEREFOR IN
ITS SECURITIES.

THIS AGREEMENT, Made and entered into this Oct 26, 1889.
Twenty-sixth day of October, A.D. 1889, by and between
THE LINK RAILWAY CONSTRUCTION COMPANY, party of the Parties.
first part, known throughout this Agreement as THE CON-
STRUCTION COMPANY and THE RIO GRANDE JUNCTION RAIL-
WAY COMPANY, party of the second part, known throughout
this Agreement as THE RAILWAY COMPANY, each of said
Companies being a corporation organized and existing
under and by virtue of the laws of the State of Colorado,
WITNESSETH:

ARTICLE I. That for and in consideration of the pay- Covenants of
Constr. Co.
ments and covenants hereinafter mentioned, to be made
and performed by the Railway Company, the Construction
Company does hereby covenant and agree as follows:

(1) To construct and finish in a substantial and work- To construct
graduations and
masonry of
designated line.
manlike manner all the graduations and masonry, and such
other work connected therewith, as may be necessary to be
done, upon the line of railway of the Railway Company,
lying between the present terminus of the track of the
main line of The Denver and Rio Grande Railroad Com-
pany (such terminus being located in Section Sixteen (16)
Township Six (6), South, Range Ninety-three (93) West,
Near the mouth of Rifle Creek, Garfield County,) and a

Agreement between
Link Ry. Constr. Co.
and R. G. J. Ry. Co.

point to be hereafter designated by said Railway Company within the city of Grand Junction, where the tracks of the road, so to be constructed, shall connect with the tracks of the said Denver and Rio Grande Railroad Company, or with the tracks of the Rio Grande Western Railway Company or with the tracks of both of said last-named companies; together with all sidings and turnouts required for such railway, all of such tracks to be of standard gauge, and the main line of said railway being in length about Sixty-four (64) miles:

To do engineering
work for perfecting
location or making
changes therein.

(2) To do and perform all the engineering work necessary or required in perfecting the location of any part of said line of railway, or in making any changes, which may be required to be made in the location of any part of said line heretofore located by the Railway Company.

Bridges, culverts
and viaducts.

(3) To build erect and complete all the bridges, drains, culverts and viaducts upon said line.

To furnish and lay
down ties and rails.

(4) To furnish and lay down all the ties and rails upon said line.

To build depot and
other buildings.

(5) To build, erect and complete all depot buildings, engine houses, freight houses, car houses, wood houses, warehouses, machine shops and other superstructions and erections required for the maintenance and operation of said railway.

To complete so
much of telegraph
line as Ry. Co.
is unable to get
W. U. or other
Tel. Co. to construct.
See p. 607

(6) To complete a line of telegraph along and adjacent to the said line of railway and upon the right of way thereof. It being however agreed that the construction Company shall be required to build and equip only so much line of telegraph as the Railway Company shall be unable to procure constructed and equipped by the Western Union or other telegraph Company, without other cost to the Railway Company than the use thereof by such telegraph company, under agreement for joint construction and use.

To acquire necessary
rights of way,
depot grounds
and lands.

(7) To acquire and obtain for the Railway Company, and in its name, all rights of way, depot grounds and lands for other purposes, necessary to the maintenance and operation of said railway, and not theretofore acquired by the Railway Company.

(8) To perform all such work and labor and to furnish all of said material in accordance with the specifications, numbered 1 to 4 inclusive, which are hereto attached, and made part and parcel of this agreement, and agreeably to the plans furnished and directions given by the Railway Company, or its agents, for time being in charge of the work, and to the satisfaction and acceptance of the Executive Committee of the Board of Directors of the Railway Company.

Agreement between
Link Ry. Constr. Co.
and R. G. J. Ry. Co.
To perform work
and furnish material
in accordance with
certain specifications.

(9) To complete all the said work within six (6) months after the Executive Committee of the Railway Company directs the commencement of said work, as hereinbefore provided.

To complete all of
said work in
6 months.

(10) To repay to the Railway Company all amounts heretofore disbursed by it, and to assume all duties and liabilities of the Railway Company under a certain contract for construction heretofore made by said company with the firm of Corey Bros. & Co. under date of September 20th, 1889, (A copy of which contract is hereto attached, and marked Exhibit A); and also to assume the payment of all indebtedness incurred by said Railway Company up to the first day of November, 1889, in completing its organization, in procuring necessary legal services, in acquiring rights of way and grounds for shops, depots and other buildings, in surveying and locating the line of its railway, and in other ways beneficial to the Railway Company, and necessary to enable it to carry out the object and purposes for which it was organized: *Provided, however* that the amounts hereby assumed and to be paid by the Railway Company, exclusively of the aforesaid contract with said Corey Bros. & Co., shall not in any event exceed the sum of One Hundred thousand dollars (\$100,000.) such amount to be paid by the Construction Company upon the presentation of its vouchers, duly approved by officers of the Railway Company designated for that purpose.

To repay to Ry. Co.
amounts disbursed
and assume
liabilities under a
certain contract.

Also to assume
indebtedness
incurred by Ry. Co.
up to Nov. 1, 1889,
for certain purposes.

Amount assumed
exclusive of said
contract not to
exceed \$100,000.

(11) To repay to the Railway Company any and all sums of money, which may hereafter be paid out by it, at the request of or for and on behalf of the Construction Company.

To repay money
hereafter expended
at request of
Constr. Co.

Agreement between
Link Ry. Constr. Co.
and R. G. J. Ry. Co.
To pay interest on
bonds of Ry. Co.
until completion
of line, except on
accepted portion
of line.

(12) To pay all interest which shall become due during the course of construction upon the bonds to be delivered to the Construction Company by the Railway Company as hereinafter set forth: Provided however, that in case the railway Company shall accept from the Construction Company any portion of said Railway line, before all of said line shall be completed, then the Construction Company shall pay the interest upon such amount of bonds as the unaccepted line of railway represents, when compared ratably with the entire line aforesaid.

Covenants of Ry. Co.

To pay \$1,999,300
in its capital stock
on signing of
contract.

Also \$1,750,000 of
its first mortgage
bonds guaranteed
by D. & R. G.
and C. M.

Provisions for
delivery of above-
named bonds from
time to time
on presentation
of certificates of
construction.

ARTICLE II. In consideration whereof, and of the further undertakings on the part of the Construction Company hereinafter set forth, the Railway Company hereby agrees that it shall and will well and truly pay, or cause to be paid, to the construction Company, a certificate or certificates of the capital stock of the Railway Company, full paid, to the amount of One Million nine hundred and ninety-nine thousand, Three hundred Dollars (\$1,999,300.) which shall be delivered to the Construction Company by the Railway Company on the signing of this contract; also the sum of One Million Seven Hundred and Fifty thousand Dollars (\$1,750,000.) in the First Mortgage Bonds of said Railway Company, each and all of which bonds shall, before delivery to the Constructon Company, under the terms hereof, bear the joint and several guarantees, both as to principal and interest, of the Denver and Rio Grande Railroad Company and the Colorado Midland Railway Company; such payments in bonds however, shall be made to the Construction Company in accordance with the following stipulations and conditions, and not otherwise: Whatever the Construction Company has completed, ready for operation (exclusive of equipment) any portion or sub-section of the line of railway herein agreed to be constructed, not less than five (5) miles in length, it shall cause a certificate to that effect to be executed by its engineer or other person in charge of construction, and by its President or Secretary, and shall cause such certificate to be delivered to the President or Secretary of the Railway Company. The Railway Company shall thereupon with-

out delay cause the portion or sub-section of line of railway, in such certificates mentioned, to be examined, and if the same shall be found to have been constructed in accordance with the provisions hereof, the Railway Company shall cause such certificate to be approved by the endorsement of the signatures of at least two members of its Executive Committee, and upon the presentation to the Treasurer of the Railway Company of such certificate, approved as aforesaid, such Treasurer shall pay, in First Mortgage Bonds, as aforesaid, to the Construction Company, or its assigns, the amount thereby shown to be due, estimating such amount at the rate of Twenty-five Thousand Dollars (\$25,000.) per mile for completed road as aforesaid and upon the final completion of said entire line of railway shall pay said Construction Company the then remaining balance of said One Million Seven Hundred and Fifty Thousand Dollars (\$1,750,000) herein agreed to be paid. First Mortgage Bonds are to draw five per cent. (5%) interest, and are to be issued under and be secured by a Mortgage on the entire road and property of the Railway Company in the usual form of railroad mortgages, and the total issue thereof shall be the sum of Two Million Dollars (\$2,000,000.).

ARTICLE III. And it is further agreed that in determining the amount and character of the work of graduation, including all tunnel work to be done under this contract, reference shall be had to the profiles of such work heretofore made by and this day delivered to the Construction Company by the Railway Company, as well as to the specifications hereto attached; and said profiles are hereby declared to be part and parcel of this Agreement.

ARTICLE IV. And it is further agreed that the work to be done under this contract shall be commenced within ten (10) days after notice to the Construction Company by the Executive Committee of the Railway Company, directing the commencement thereof, Provided said certificates of stock shall have been previously delivered to the Construction Company as aforesaid.

Agreement between
Link Ry. Constr. Co.
and R. G. J. Ry. Co.

Bonds to bear
5% interest, to be
secured by mortgage
and limited
to \$2,000,000

Reference to
certain plans and
specifications.

Work to be begun
within 10 days
after notice from
Ry. Co. and
delivery of said
certificates of stock.

Agreement between
Link Ry. Constr. Co.
and R. G. J. Ry. Co.
Provision for
termination of
contract by Ry. Co.
in case of
non-performance
by Constr. Co.

ARTICLE V. And it is further agreed that in case the Construction Company shall not well and truly, from time to time, comply with and perform all the terms hereinbefore stated and stipulated on its part, in the manner and form, within the times, hereinbefore mentioned, or in case it shall appear to the Executive Committee of the Railway Company that the work is not progressing with sufficient speed, or in the proper manner, or in case of an interference with said work by legal proceedings, instituted against the Construction Company or other parties than the Railway Company, then and in such case, said Executive Committee shall have power with the approval of the Board of Directors of the Railway Company, but not otherwise, to annul this agreement, by serving a notice in writing to that effect, upon the President or any other officer of the Construction Company and upon serving of such notice as aforesaid, this agreement and every clause and condition thereof shall terminate. All right of occupancy by the Construction Company in or upon the lands or property of the Railway Company, and all rights whatever of the said Construction Company, in and to any further prosecution of, or interest in, the work, shall forthwith cease and determine upon notice and payment as aforesaid and the Railway Company may contract anew for the work remaining to be done, or may employ any other person or persons to do and complete the work herein mentioned, or so much of it as may remain unfinished, as though this agreement had never been made.

If work is stopped
by injunction
against Ry. Co.,
Ry. Co. may suspend
or terminate contract
by paying amount
found due at time
of suspension.

ARTICLE VI. It is further agreed that if, at any time during the progress of the work to be done under the provisions of this contract, or any part thereof, shall be stopped, interrupted or interfered with by any injunction or order of any court against the Railway Company, then and in such case, the Railway Company shall have the right to at once suspend the execution of or to annul this agreement, and such suspension or annulment shall not give the Construction Company any right to or claim for damages against the Railway Company, and upon the payment to the Construction Company of the amount found

to be due it at the time of such suspension by the award of the arbitrators as hereinafter provided, such Construction Company shall execute and deliver to the Railway Company a receipt in full and release of all claims whatsoever against the Railway Company.

Agreement between
Link Ry. Constr. Co.
and R. G. J. Ry. Co.

ARTICLE VII. And it is further agreed that in case this contract shall be terminated by the mutual agreement of the parties or by the failure of the Construction Company to comply with the terms of, or to complete the same, or by the exercise on the part of the Railway Company of the power herein given it to annul same, or in any manner whatsoever, then the determination of the amount which the Construction Company shall receive or shall retain for the work performed or the material furnished, or indebtedness incurred by it under this contract up to the time of the termination thereof, as aforesaid, in case the parties cannot agree as to such amount, shall be submitted to three persons, one of whom shall be selected by the Railway Company, and one by the Construction Company, and the third by these two, with such books papers, and other evidence as they may require, and after due consideration and decision by such arbitrators, their award, or the award of a majority of them, as to all subjects of disagreement submitted to them, shall be final and shall be binding upon and be observed and performed by each of the parties hereto; and in case the amount of such award for work done or material furnished by the Construction Company, under the terms of this contract, at the time the same may be determined as aforesaid, shall be less than the amount heretofore received by the Construction Company from the Railway Company, then, and in such event, the Construction Company shall pay over and refund to the Railway Company the excess above the amount of such award, either in shares of the capital stock of the Railway Company or in money; it being however, expressly agreed that in case the Construction Company shall have at the time of the making award, disposed of the shares of the capital stock of the Railway Company received by it hereunder, the amount received

Provision for
arbitration and
settlement in
case of termination
of contract.

Agreement between
Link Ry. Constr. Co.
and R. G. J. Ry. Co.

Constr. Co. not to
make any contract
involving expenditure
of \$5,000 without
written consent of
Ex. Com. of Ry. Co.

If extra work
outside of
specifications
is required, this
contract shall
apply except that
time limit shall
be reasonably
extended by Ex.
Com. of Ry. Co.

Arbitration to
be resorted to in
case of dispute.

by the Construction Company for such shares shall be conclusive upon the Railway Company and upon the arbitrators as to value of the same, for the purposes intended and contemplated by this article of this Agreement.

ARTICLE VIII. And it is further agreed that the Construction Company shall not enter into any contract for the performance of any work or labor, or the furnishing of any material required by the terms of this contract, involving the expenditure of the sum of Five thousand Dollars, (\$5,000.), without first obtaining the written consent of a majority of the Executive Committee of the Railway Company to the making of such contract.

ARTICLE IX. And the Construction Company hereby further covenants and agrees to and with the Railway Company that in case it should be determined by the Executive Committee of the Railway Company to construct any further earth works, bridges, culverts, drains, walls or other works, not now contemplated, or herein numerated, upon or pertaining to the said line of railway, or any part thereof, or to perform any other extra work, or provide any extra material or equipment not embraced under the terms of this contract, nor included in the specifications, that the construction Company shall perform, construct and complete the same as though the said work had been specifically set out herein, and for such prices as may be agreed upon, and otherwise, upon the terms and conditions hereinbefore stipulated; except with regard to the time of completing the same, which it is hereby agreed will be in that case reasonably extended at the discretion of the Executive Committee of the Railway Company when the new limit fixed by it, shall have the same effect as though it were inserted in this Agreement. Such extra work, material and equipment, to be paid for at such rate and in such manner as may be hereafter agreed upon between the parties hereto.

ARTICLE X. It is further agreed that in case any disagreement or dispute shall arise between the parties hereto as to the proper construction of any of the conditions of this contract, or as to any other matter connected there-

with, for the determination of which no provision has
 hereinbefore been made, the same shall be decided by
 arbitration in the manner hereinbefore provided.

Agreement between
 Link Ry. Constr. Co.
 and R. G. J. Ry. Co.

IN WITNESS WHEREOF the said THE LINK RAILWAY
 CONSTRUCTION COMPANY and the said THE RIO GRANDE
 JUNCTION RAILWAY COMPANY have respectively caused their
 corporate seals to be hereunto affixed and these presents to
 be signed and attested by their respective Presidents and
 Secretaries, the day and year first above written.

Attesting clause.

THE LINK RAILWAY CONSTRUCTION COMPANY.

By

President.

Attest:

Secretary.

THE RIO GRANDE JUNCTION RAILWAY COMPANY.

By

President.

Attest:

Secretary.

THE COPY of the agreement from which the foregoing pages were
 printed does not contain the signatures, but there can be no doubt that
 the instrument was executed, and this fact is shown by the agreement
 printed on the following pages.

As to execution of
 foregoing agreement.

AGREEMENT

BETWEEN

**THE LINK RAILWAY CONSTRUCTION
COMPANY**

**THE DENVER AND RIO GRANDE RAILROAD
COMPANY**

AND

**THE COLORADO MIDLAND RAILWAY
COMPANY**

IN REGARD TO THE DISPOSITION OF THE SECURITIES OF THE RIO
GRANDE JUNCTION RAILWAY COMPANY ACQUIRED BY
SAID CONSTRUCTION COMPANY UNDER THE
FOREGOING AGREEMENT.

Jan. 2, 1890.
Parties.

THIS AGREEMENT, made this 2nd day of January, A.D. 1890, between THE LINK RAILWAY CONSTRUCTION COMPANY, hereinafter called the Construction Company, party of the first part, and THE DENVER AND RIO GRANDE RAILROAD COMPANY, hereinafter called the "Denver Company," and THE COLORADO MIDLAND RAILWAY COMPANY, hereinafter called the "Midland Company," parties of the second part, each of such Companies being a corporation organized under the laws of the State of Colorado, WITNESSETH;

Recital as to
making of
foregoing contract.

WHEREAS, the Construction Company has entered into a contract with the Rio Grande Junction Company, for the construction of its line of railroad between Rifle Creek and Grand Junction, and under said contract will receive One Million, Seven hundred and fifty thousand dollars (\$1,750,000) of the First Mortgage Five per cent. Gold Bonds of the said The Rio Grande Junction Railway Company out of a total issue of Two Million Dollars (\$2,000,000) of such bonds, and Nineteen thousand Nine hundred and ninety three shares of its capital stock out of a total

issue of Twenty thousand (20,000) shares, and such payments will be made in the proportions and manner and at the times in said contract specified; and

Agreement between Link Ry. Constr. Co., the D. & R. G. and C. M.

WHEREAS, the Construction Company is desirous of converting the securities so to be received by it into money; and

Wish of Constr. Co. to convert securities into money.

WHEREAS, the Construction Company has applied to said Denver Company and the Midland Company to act as its Agent in the sale and disposition of such bonds and shares of stock; and

Request to D. & R. G. and C. M. Co. to act as agent.

WHEREAS, the said two Companies have agreed at the special instance and request of the said Construction Company to act as the Agent of said Construction Company in that regard.

Acceptance of such agency.

NOW, THEREFORE, the parties hereto have agreed as follows;

Agreement.

FIRST—The Construction Company will as and when received by it deliver to the Denver Company and the Midland Company all of the said One Million seven hundred and fifty thousand dollars (\$1,750,000) First Mortgage Five per cent. Gold Bonds of the Rio Grande Junction Railway Company, and Five thousand two hundred and fifty (5250) shares of the capital stock of the said Company, and hereby authorizes and empowers the said Denver Company and Midland Company to sell and dispose of the said First Mortgage Five per cent. Gold Bonds and the said stock for such sum as they in their best endeavors may be able to obtain for the same, not, however, for a less sum than One Million four hundred and forty three thousand seven hundred and fifty dollars (\$1,443,750), and upon the said Denver Company or Midland Company effecting such sale, the Junction Company agrees to assign, transfer and deliver to each of them, as compensation for their services performed, Seven thousand three hundred and seventy one and one-half (7371½) shares of the full paid capital stock of the said Junction Company, being part of the Nineteen thousand nine hundred and ninety three (19,993) shares so to be received by the Construction Company from the Junction Company as aforesaid.

Constr. Co. to deliver to the Agent Coa. \$1,750,000 first mortg. bonds and \$525,000 capital stock of the R. G. J. Ry. Co. and empowers them to sell said bonds and stock for a sum not less than \$1,443,750, and if they effect such sale, agrees to pay to each of them as compensation for their services, \$737,150 of R. G. J. capital stock.

The C. M. Ry. Co.

898

**Agreement between
Link Ry. Constr. Co.,
the D. & R. G. and
C. M.**

IN WITNESS WHEREOF, each of the said parties has
caused its corporate name to be hereunto subscribed by the
hand of its

.
and its corporate seal to be hereunto affixed, attested by its
Secretary, the day and year first above written.

THE LINK RAILWAY CONSTRUCTION COMPANY.

By J. F. VAILE,
President.

Attest:
CHAS. S. LEE,
Secretary.

THE DENVER AND RIO GRANDE RAILWAY COMPANY.

By D. H. MAFFOT,
President.

Attest:
J. W. GILLULY,
Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

By HENRY T. ROGERS,
Vice-President.

Attest:
E. W. SELLS,
Secretary.

AGREEMENT OF MAY 13, 1893

BETWEEN THE PRESIDENTS OF

THE COLORADO MIDLAND RAILWAY
COMPANY

AND

THE DENVER & RIO GRANDE RAILROAD
COMPANY

IN REGARD TO THE CAPITAL STOCK OF THE RIO GRANDE JUNCTION
RAILWAY COMPANY, THE MAKING OF A LEASE BY THE
LAST-NAMED COMPANY AND OTHER MATTERS.

Memorandum of Agreement entered into this thirteenth day of May, 1893, by and between J. W. Reinhart, President of the Colorado Midland Railway Company, and E. T. Jeffery, President of the Denver & Rio Grande Railroad Company, each for himself and for his company, for the purpose of settling and adjusting existing disputes and controversies between said Companies, witnesseth as follows:

May 13, 1893.
Parties.

1. When the construction of the line of the Rio Grande Junction Railway Company was determined upon, it was mutually agreed between the Denver & Rio Grande Railroad and Colorado Midland Railway Companies that the line should be jointly built, owned and operated under lease from the Rio Grande Junction Ry. Co. to the said Denver & Rio Grande R.R. and Colorado Midland Ry. Companies respectively. An Agreement was further entered into providing that the stock of said Company should be held equally by the two Companies and that the Board of Directors should be named as follows: The Denver & Rio Grande Railroad Company should name three Directors and the Colorado Midland Railway Company three Directors, who should receive the votes of all the stock owned by both of said Companies. The six Directors so named should determine upon a seventh Director, neutral in interest, who should receive the votes of all the stock held by the Denver & Rio Grande Railroad and the Colorado Midland Railway Companies, the intention of

Recital as to
contemplated lease
by R. G. J.

Recital of agreement
as to directors and
capital stock of
R. G. J. See post
903, 906.

sengers or freight, over its said line than are given or permitted by the Denver & Rio Grande Railroad Company on its Marshall Pass Line or than shall be given or permitted by any outside company in competition with the two companies parties to this agreement.

Presidents' Agreement of May 13, 1893, as to R. G. J. and other matters.

2. Competitive passenger and freight rates shall be immediately restored to a reasonable basis, to be determined upon by the traffic officials of the two Companies, to be approved by the parties hereto. In case of failure to agree between the respective freight or traffic officials of the two companies, then the question shall be submitted by them for decision to a third disinterested party, whose decision shall be final and binding and the rate named by him shall be adopted by both companies. It is understood that the restoration of rates referred to shall include the Denver & Rio Grande Railroad Company's rates between Colorado common points and points on the Atchison, Topeka & Santa Fe Railroad.

Agreement for fixing rates between the two companies.

3. It is also mutually agreed between the parties hereto, both personally and officially, that they will cause an absolute maintenance of the rates established from time to time by the proper traffic officials, both passenger and freight, through and local, on their respective lines on competitive traffic, and any deviations therefrom will be taken up individually by the parties hereto and such action will be taken as can be mutually agreed upon or, in case of failure to agree, it shall be submitted to a disinterested third party for decision and both parties hereto will be bound by said decision. This provision of the agreement to continue in force for one year from date hereof and to continue thereafter subject to written notice of desire of either party to terminate the same.

Further provision on the same subject.

4. Existing agreements as to passenger traffic shall stand for one year from date hereof and shall be extended to include mileage tickets issued by either of said Companies. Existing agreements as to freight traffic at Aspen are hereby terminated and discontinued. Existing agreements as to freight traffic at Leadville shall stand and continue. Mileage tickets issued by the parties hereto for newspapers or legitimate periodicals in payment for adver-

Existing agreements as to passenger traffic to stand for one year.

As to freight traffic at Aspen, terminated.
As to freight traffic at Leadville to stand.
Provision as to certain mileage tickets.

Presidents' Agreement of May 13, 1893, as to R. G. J. and other matters.

Former agreement as to holding of R. G. J. stock modified.

Provision for acquiring outstanding stock of R. G. J.

Provision as to voting on said stock as to equal holdings by the two companies.

Lease to be immediately made by R. G. J. to the two companies.

Agreement as to rates to be made at same time with lease.

said contract being to put each of said two companies upon an absolute equality with the other in the management, control, operation and ownership of said Rio Grande Junction Railway Company. Said agreement as first drawn contemplated the deposit of said stock with a trustee; to that extent the original agreement is herein modified and it is agreed between the parties that the stock to be held by the two Companies shall be held and voted separately in accordance with the above understanding.

It appears that certain shares of said stock are now held by outside parties, supposably in the interest of the Denver & Rio Grande Railroad Company. The Denver & Rio Grande Railroad Company agrees to secure all of said stock so outstanding which it is in its power to secure and to cause to be assigned and delivered to the Colorado Midland Railway Company one half ($\frac{1}{2}$) of said outstanding stock, the Colorado Midland Railway Company paying therefor the sum actually paid for said stock. In the event that said stock cannot all be secured, then the essence of this agreement is that the whole of the stock held by such Companies shall be voted as a unit in accordance with the understanding above set forth, and it is further understood and agreed that neither company shall part with its present or future holdings of said stock without having first offered it to the other Company at cost, and it is understood and agreed that neither company shall at any time or in any manner secure or own more of said stock than the other.

It is further agreed that a lease shall be entered into immediately between the Denver & Rio Grande Railroad, the Colorado Midland Railway and the Rio Grande Junction Railway Companies substantially upon the lines of the last lease submitted and initialed by Messrs. Rogers and Vaile, attorneys of said companies.

Contemporaneous with said lease or as a part thereof, some agreement shall be entered into which shall secure to the Rio Grande Junction Railway Company some reasonable voice in the fixing and maintenance of rates over its line, but the Rio Grande Junction Railway Company shall not be permitted to require higher rates, either for pas-

sengers or freight, over its said line than are given or permitted by the Denver & Rio Grande Railroad Company on its Marshall Pass Line or than shall be given or permitted by any outside company in competition with the two companies parties to this agreement.

Presidents' Agreement of May 13, 1893, as to R. G. J. and other matters.

2. Competitive passenger and freight rates shall be immediately restored to a reasonable basis, to be determined upon by the traffic officials of the two Companies, to be approved by the parties hereto. In case of failure to agree between the respective freight or traffic officials of the two companies, then the question shall be submitted by them for decision to a third disinterested party, whose decision shall be final and binding and the rate named by him shall be adopted by both companies. It is understood that the restoration of rates referred to shall include the Denver & Rio Grande Railroad Company's rates between Colorado common points and points on the Atchison, Topeka & Santa Fe Railroad.

Agreement for fixing rates between the two companies.

3. It is also mutually agreed between the parties hereto, both personally and officially, that they will cause an absolute maintenance of the rates established from time to time by the proper traffic officials, both passenger and freight, through and local, on their respective lines on competitive traffic, and any deviations therefrom will be taken up individually by the parties hereto and such action will be taken as can be mutually agreed upon or, in case of failure to agree, it shall be submitted to a disinterested third party for decision and both parties hereto will be bound by said decision. This provision of the agreement to continue in force for one year from date hereof and to continue thereafter subject to written notice of desire of either party to terminate the same.

Further provision on the same subject.

4. Existing agreements as to passenger traffic shall stand for one year from date hereof and shall be extended to include mileage tickets issued by either of said Companies. Existing agreements as to freight traffic at Aspen are hereby terminated and discontinued. Existing agreements as to freight traffic at Leadville shall stand and continue. Mileage tickets issued by the parties hereto for newspapers or legitimate periodicals in payment for adver-

Existing agreements as to passenger traffic to stand for one year.

As to freight traffic at Aspen, terminated. As to freight traffic at Leadville to stand.

Provision as to certain mileage tickets.

Presidents' Agreement of May 13, 1893, as to R. G. J. and other matters.

C. M. to have right to use present passenger facilities and new depot of D. & R. G. at Glenwood Springs, compensation to be based on interest on cost.

Joint ticket agent.

This provision to continue for one year and thereafter until discontinued on 30 days' written notice by either Co.

Agreement, if possible, to be made with U. P. as to city ticket offices in Leadville.

Auditor of C. M. to be auditor of R. G. J.

Equal division on local earnings originating on R. G. J.

Interchange of cars at Grand Junction.

Certain matters to be submitted by the presidents to a third party for final decision.

tising will be excluded from the agreements, but the proper traffic officer of each company will exchange monthly statements of all mileage tickets so issued.

5. It is understood and agreed that the Colorado Midland Railway shall have the right to use the present passenger facilities and new depot (if constructed) of the Denver & Rio Grande Railroad Company at Glenwood Springs. Compensation for use of said facilities to be based on interest on cost of the property used, including tracks, and all operating expenses of such depot divided on a basis between the two companies in proportion of car wheelage. A joint ticket agent to be appointed by both parties who shall serve each impartially and whose wages will be divided equally between the two companies. This provision of the agreement shall continue in force for one year from date hereof. It shall continue in force thereafter, subject to discontinuance on thirty days written notice by either company.

6. An agreement shall be entered into if possible with the Union Pacific Road, the third party to the tripartite agreement, for either the abandonment or consolidation of the city ticket offices in Leadville.

7. It is agreed that the Auditor of the Colorado Midland Railway Company shall be the Auditor of the Rio Grande Junction Railway Company.

8. It is understood and agreed that there shall be an equal division of local earnings on competitive business originating on the line of the Rio Grande Junction Railway, excluding terminals.

9. It is understood and agreed that the two Companies, the Denver & Rio Grande Railroad and the Colorado Midland Railway, shall use their best efforts to enforce the general rule of the Master Car Builders' Association governing the interchange of cars at Grand Junction with the Rio Grande Junction Railway and its connections.

10. It is understood and agreed that the question of discount on securities in the cost of the line New Castle to Rifle Creek and the adjustment of interest charges paid the Denver and Rio Grande Railroad Company by the Link Construction Company shall be submitted by the

Presidents of the Colorado Midland Railway and Denver & Rio Grande Railroad Companies to a third party, to be selected by both, for decision, and that said decision of such third party shall be final and binding.

Presidents' Agreement
of May 13, 1893.

J. W. REINHART,

President The Colorado Midland Railway Company.

E. T. JEFFERY,

President The Denver & Rio Grande Railroad Company.

In the presence of GEO. R. PECK, D. B. ROBINSON, HENRY T. ROGERS, H. COLLBRAN, WM. F. WHITE, A. S. HUGHES, E. O. WOLCOTT.

THE FOLLOWING is an executed Memorandum of the Agreement of May 12, 1889, referred to in the foregoing Agreement.

Memorandum of
Conference of
May 12, 1889, referred
to in foregoing
Agreement.

MEMORANDUM OF CONFERENCE BETWEEN MESSRS. HAGERMAN AND COLLBRAN, OF THE COLORADO MIDLAND RAILWAY COMPANY AND MESSRS. MOFFATT AND SMITH OF THE DENVER AND RIO GRANDE RAILWAY COMPANY HELD IN OFFICE OF LATTER COMPANY MAY 12, 1889.

It was assumed and suggested respectively as follows:

First: That the Denver & Rio Grande Railroad Company has completed the line from New Castle to Rifle Creek.

Second: That the Denver & Rio Grande Railroad Company will operate its own line from Glenwood Springs to New Castle and the Colorado Midland Railway Company will build no further down the Grand River Valley and will make its permanent connection with that portion of the line from New Castle to Rifle Creek at New Castle.

Third: The line from New Castle to Rifle Creek having already been built by the Denver & Rio Grande Railroad Company, to enable the Colorado Midland Railway Company to make a direct connection with the Rio Grande Junction Company at New Castle it seems necessary that the Rio Grande Junction should control and operate that portion of the line under lease or agreement, for a term of years based upon an agreed valuation of actual cost, with a fair allowance for maintenance, taxes and other current expenses.

Fourth: The extensions of the line from Rifle Creek to

Memorandum of
Conference of
May 12, 1889, referred
to in foregoing
Agreement.

Grand Junction, a distance of about sixty-four miles, shall be built in the interests of the Denver & Rio Grande and Colorado Midland Companies, under the corporate rights of the Rio Grande Junction Railway Company.

Fifth: That the train service of the Rio Grande Junction Railway Company shall be performed by the Denver & Rio Grande and Colorado Midland Companies, and the Rio Grande Junction Railway Company shall allow for such service forty per cent. of the gross receipts obtained by the Rio Grande Junction Railway Company from such service; that this basis should continue for a trial period of three months, and in the event of its being found necessary or desirable at the expiration of that time or at any subsequent period to change this percentage, the same shall be readjusted.

Sixth: That the Rio Grande Junction Railway Company should be awarded the agreed percentage of the earnings obtained on through traffic and local earnings, and in case the net revenue produced by this allowance should not reach the fixed charges and other expenses, including taxes, of the Rio Grande Junction Railway Company, the Denver and Rio Grande and Colorado Midland Companies will make good the deficit proportionately.

Seventh: It is understood that the respective Board of Directors of the Denver and Rio Grande and Colorado Midland Companies have reached an agreement extending the limits of the existing traffic contracts to embrace all through or competitive traffic originating at or passing between Denver, Colorado Springs, Pueblo, and other common points, in both directions, and points on or beyond the line of the Rio Grande Junction Railway Co.

Eighth: That the rates on through traffic between Leadville and points east thereof, and Grand Junction and points west thereof, should be divided on a basis of mile for mile, computed upon the mileage of the Denver & Rio Grande Railroad Company, and the Rio Grande Junction Railway Company should obtain the same rates on all through traffic received from or delivered to the Colorado Midland Railway Company as on similar traffic when received from or delivered to the Denver and Rio Grande Railroad Company, and the through rates upon traffic originating to points west of Leadville on the lines of the Denver & Rio Grande or Colorado Midland Companies shall be based upon the combination of local rates.

Ninth: That the diversion of competitive traffic to and from common points between Aspen and Grand Junction should be on the basis of 50 per cent. to each company, and

competitive traffic between Leadville and common points east thereof should be divided upon the basis of

65 per cent. to the Rio Grande Company

35 per cent. to the Midland Company.

This allowance of fifteen per cent. to the Rio Grande Company is made in consideration of the larger territory reached by that line affording shippers at common points advantages in distributing to local points not reached by other lines.

Tenth: It is proposed to utilize all the terminal facilities possessed by the Denver & Rio Grande Railroad Company at Grand Junction on a fair and customary basis. This is intended to include all grounds, buildings, tracks and appurtenances necessary for handling freight and passenger traffic and live stock business, and equal and joint use of fuel and water station, round house, shops, etc.

Eleventh: That the Rio Grande Western Company will connect with the Denver & Rio Grande Company's line at Crevasse and use the tracks of the latter company from Crevasse to Grand Junction under lease, and also that the Rio Grande Western Company will join in an agreement with the Rio Grande Railroad and Rio Grande Junction Railway Companies for the joint use of the terminal facilities belonging to the Denver & Rio Grande Railroad Company at Grand Junction.

Twelfth: That the Rio Grande Junction Company shall maintain its railroad in good condition and shall run the trains and conduct the business of both the Denver and Rio Grande and Colorado Midland Companies without discrimination, and in case of accident to trains or damage to other property, caused by negligence of employees of the Rio Grande Junction Railway Company, or through any defect of roadway, the damage incurred thereby shall be borne by the Rio Grande Junction Railway Company, and that in case of accident caused by negligent trainmen or other employees of either of the two companies (Denver & Rio Grande and Colorado Midland Companies) the damage of same shall be borne by the Company at fault, and in cases where such accident is occasioned through negligence or defect that cannot be traced to either of the three companies the damage shall be apportioned equally.

Thirteenth: It is not considered necessary or advisable that a full staff of operating officials shall be appointed to conduct the business of the Rio Grande Junction Railway Company; and it is suggested that all the supervision that now appears necessary would be provided by the appointment of a combination Road Master and Bridge Supervi-

Memorandum of
Conference of
May 12, 1889, referred
to in foregoing
Agreement.

Memorandum of
Conference of
May 12, 1889, referred
to in foregoing
Agreement.

sor, to have charge of the maintenance of way, bridges, etc. and joint local agents as the various stations who will conform to the instructions received from the departmental officials of both the Denver & Rio Grande and Colorado Midland Companies as far as relates to the business of the two said companies.

Fourteenth: That all matters of detail, such as agents' reports and remittances, payments to be made on behalf of the Rio Grande Junction Railway Company, arrangements for conducting train service and operating generally, can be better provided for when the construction of the road is completed than at present, and that by the main principles suggested herein to be covered by the proposed contract both the Denver & Rio Grande and Colorado Midland Companies will be fully protected.

Fifteenth: That as the trains of both the Denver & Rio Grande and Colorado Midland Companies are to be run through over the line of the Rio Grande Junction Railway Company, no train equipment of any kind will be required by the Rio Grande Junction Railway Company.

Provision for
directors of R. G. J.

Sixteenth: That an equal number of Directors of the Rio Grande Junction Railway Company shall be chosen by the Denver & Rio Grande and Colorado Midland Companies respectively, and that one additional disinterested person shall be chosen who will be satisfactory to both companies.

Seventeenth: That it will be necessary in drawing the contract suggested by this memorandum to provide for the future occupancy by the Burlington Railway Company of the line between Glenwood Springs and Grand Junction as provided in a contract already entered into between the Denver & Rio Grande and Burlington Companies.

Provision as to
capital stock of
R. G. J.

Eighteenth: The stock of the Junction Company shall be pooled in such manner and upon such terms as will secure the enforcement of the contract to be entered into as above outlined.

Nineteenth: The customary clause providing for arbitration in all cases of difference or dispute should be inserted.

These recommendations agreed to on behalf of D. & R.G. Ry.

D. H. MOFFAT
S. T. SMITH.

On behalf of Colorado Midland Railway Co. excepting contents of paragraph 9 (Nine) which requires further consideration.

J. J. HAGERMAN
H. COLLBRAN.

AGREEMENT

BETWEEN

THE RIO GRANDE JUNCTION RAILWAY CO.

AND

THE WESTERN UNION TELEGRAPH CO.

THIS AGREEMENT, made and entered into this nineteenth (19th) day of May, 1890, by and between the WESTERN UNION TELEGRAPH COMPANY of the first part, and the RIO GRANDE JUNCTION RAILWAY COMPANY of the second part, hereinafter respectively designated as the Telegraph Company and the Railway Company, WITNESSETH:

May 19, 1890.

Parties.

THAT WHEREAS the Railway Company is constructing a railroad between Rifle Creek and Grand Junction, Colorado, along which railroad and any extensions or branches thereof, it is proposed that a telegraph line shall be constructed, maintained and operated;

Ry. Co. constructing a road between Rifle Creek and Grand Junction.

NOW, THEREFORE, for and in consideration of the covenants and agreements herein contained, the parties hereto have mutually agreed as follows:

Agreement.

First. The Telegraph Company agrees to furnish at its own expense at some station on the line of the Railway Company's railroad, or on the Denver and Rio Grande Railroad, or the Colorado Midland Railroad, as the Telegraph Company may elect, all poles, wire, insulators, and other necessary material, and the Railway Company agrees to furnish at its own expense, all the labor, except a foreman, for the construction of a telegraph line of two or more wires along said railroad between Rifle Creek and Grand Junction, and along any extensions or branches thereof, and for the construction from time to time of such additional wires as may be required for the business of either party hereto, along the Railway Company's railroad and branches or extensions. *Provided, however,* that if

Tel. Co. agrees to furnish all poles, wire, insulators and other necessary material.

And Ry. Co. agrees to furnish all labor, except a foreman, for construction of telegraph line along said railroad and any extensions and branches thereof.

Agreement between
R. G. J. and
W. U. Tel. Co.

If Tel. Co. requires
more than double
the number of wires
used for railroad
business, it shall
furnish labor for
such extra wires.

Provision for
maintenance and
repairs.

Work to be done
under foreman
furnished by Tel. Co.

Ry. Co. to repair
wires of Tel. Co.
with same care
as its own.

Provision as to
salaries of linemen.

Two wires to be
set apart for
exclusive use of
Ry. Co.

the Telegraph Company shall require the use of more than double the number of wires used for railroad business exclusively, the Telegraph Company shall at its option either furnish the labor for the construction of such additional wires for its use, or refund to the Railway Company the cost of such labor furnished by it. The Telegraph Company further agrees to furnish as above provided, at its own expense, as and when necessary, all poles, wire, insulators and other necessary material, and the Railway Company agrees to furnish at its own expense, all the labor, for the maintenance, repair and reconstruction or renewal of all the lines of poles and wires covered by this agreement along the Railway Company's railroad, and branches or extensions.

The work of construction and reconstruction or renewal herein provided for, shall be done under the direction of a foreman to be furnished by the Telegraph Company.

It is the intention hereof that the Railway Company shall exercise the same care and diligence in the maintenance, and repair of the wire or wires that the Telegraph Company has or may have along said railroad and branches or extensions, that the Railway Company does in the maintenance and repair of the wire or wires used exclusively by it.

The Telegraph Company agrees to pay monthly to the Railway Company one-half of the salaries of the regular linemen employed by it for the ordinary and current repairs to the lines and wires along said railroads; it being understood and agreed that the number of such regular linemen employed or to be employed and the place or places at which they shall be stationed, shall be mutually determined and agreed upon between the parties hereto. All of such regular linemen employed by the Railway Company shall be satisfactory to the Telegraph Company, and subject to its rules and regulations.

Second. The Telegraph Company agrees to set apart for the exclusive use of the Railway Company in the transmission of messages on its railroad business two (2) wires as hereinafter provided, along said railroad between Rifle

Creek and Grand Junction, and branches and extensions thereof.

On portions of the Railway Company's railroad and branches and extensions where it may not be necessary at first to put up two wires, the Telegraph Company agrees to set apart the first wire for the joint use of the parties hereto, in the transmission of railroad and commercial telegraph business, it being agreed that the Railway Company's messages of an urgent character and directing the movement of trains, shall have precedence over said joint wire.

Whenever the railroad business of the Railway Company requires the exclusive use of said joint wire, the Telegraph Company, on receiving sixty days' written notice, agrees to furnish the material for a wire for commercial business, the Railway Company agreeing to furnish the labor and pay the expenses of erecting the same, under the direction of a foreman to be furnished by the Telegraph Company as hereinbefore provided.

After the erection of said second wire, the first wire shall be set apart for the Railway Company's railroad business exclusively, and the second wire shall be used jointly by the parties hereto in the transmission of railroad and commercial telegraph business, the latter having precedence.

Whenever the railroad business of the Railway Company requires the exclusive use of the second wire hereinbefore provided for, a third wire shall be erected for commercial business in like manner as hereinbefore provided, and said second wire shall be set apart for the Railway Company's railroad business exclusively.

In case of the interruption of either one of the two wires where each party has the use of one wire, the business of both parties hereto shall, as far as practicable, be done over the working wire, important railroad messages of an urgent character and directing the movement of trains having precedence.

It is agreed that such commercial or public business may be done upon exclusively railroad wires as can be

Agreement between
R. G. J. and
W. U. Tel. Co.

Provision for
joint use of
first wire where
two wires are
not necessary.

In case Ry. Co.
requires exclusive
use of said joint
wire, another is
to be put up.

After erection of
second wire Ry.
Co. shall have
exclusive use
of first.

When Ry. Co.
requires exclusive
use of second wire,
a third shall be
erected and the
second set apart
for Ry. Co.

Provision in case
of interruption of
one wire.

Commercial business
on Ry. wires when
it does not interfere.

**Agreement between
R. G. J. and
W. U. Tel. Co.**

**If Tel. Co. requires
more than double
the number of wires
used for railroad
business, it shall
furnish labor for
such extra wires.**

**Provision for
maintenance and
repairs.**

**Work to be done
under foreman
furnished by Tel. Co.**

**Ry Co. to repair
wires of Tel. Co.
with same care
as its own.**

**Provision as to
salaries of linemen.**

**Two wires to be
set apart for
exclusive use of
Ry. Co.**

the Telegraph Company shall require the use of more than double the number of wires used for railroad business exclusively, the Telegraph Company shall at its option either furnish the labor for the construction of such additional wires for its use, or refund to the Railway Company the cost of such labor furnished by it. The Telegraph Company further agrees to furnish as above provided, at its own expense, as and when necessary, all poles, wire, insulators and other necessary material, and the Railway Company agrees to furnish at its own expense, all the labor, for the maintenance, repair and reconstruction or renewal of all the lines of poles and wires covered by this agreement along the Railway Company's railroad, and branches or extensions.

The work of construction and reconstruction or renewal herein provided for, shall be done under the direction of a foreman to be furnished by the Telegraph Company.

It is the intention hereof that the Railway Company shall exercise the same care and diligence in the maintenance, and repair of the wire or wires that the Telegraph Company has or may have along said railroad and branches or extensions, that the Railway Company does in the maintenance and repair of the wire or wires used exclusively by it.

The Telegraph Company agrees to pay monthly to the Railway Company one-half of the salaries of the regular linemen employed by it for the ordinary and current repairs to the lines and wires along said railroads; it being understood and agreed that the number of such regular linemen employed or to be employed and the place or places at which they shall be stationed, shall be mutually determined and agreed upon between the parties hereto. All of such regular linemen employed by the Railway Company shall be satisfactory to the Telegraph Company, and subject to its rules and regulations.

Second. The Telegraph Company agrees to set apart for the exclusive use of the Railway Company in the transmission of messages on its railroad business two (2) wires as hereinafter provided, along said railroad between Rifle

the Railway Company, originating at or destined to points on the Telegraph Company's lines in the United States, beyond or off the line of the Rio Grande Junction, the Denver and Rio Grande and Colorado Midland Railroads, for an amount not exceeding six hundred and fifty dollars (\$650.00) per annum for the first sixty-five (65) miles of railroad owned or controlled and operated by the Railway Company party hereto and occupied by a telegraph line constructed, maintained and operated thereon under the provisions of this agreement, and six dollars (\$6.00) per annum additional for each additional mile of railroad constructed, owned or controlled and operated by the Railway Company party hereto and occupied as aforesaid.

The tolls on all of such messages to or from points beyond or off the line of said railroads shall be calculated at the regular commercial day rates of the Telegraph Company, between the points at which such messages originate and the points to which they may be destined. And the Railway Company agrees to pay to the Telegraph Company one-half of its aforesaid rates on all such messages in excess of said amount. Settlements to be made yearly.

It is understood and agreed that the free telegraphic service herein provided for applies only to the transmission of messages concerning the operation and business of the Railway Company's railroads, and shall not be extended to any messages for transmission by cable, nor to messages ordering freights or other accommodations for customers of the Railway Company, the tolls on which messages should properly be chargeable to such customers.

Sixth. Either party to this agreement may establish and maintain telegraph stations at such points on said Rio Grande Junction Railroad as it may deem necessary, and at all such stations as the Railway Company may establish, the Telegraph Company agrees to supply instruments and local batteries and blank forms and stationery for commercial business. The Telegraph Company further agrees to furnish the use of its main batteries for the operation of the wires herein provided for. The Railway Company agrees to furnish free of charge in its station houses suit-

Agreement between
R. G. J. and W. U.
Tel. Co.

Ry. Co. to pay
Tel. Co. one-half of
regular commercial
rates on all franked
messages in excess
of limited amount

Limits of free
telegraphic service.

Provisions for
telegraph stations.

Agreement between
R. G. J. and W. U.
Tel. Co.

Commercial wires
to be under control
of Tel. Co.

Provision for
additional wire if
Ry. Co. requires
more than two for
its exclusive use.

Right of Ry. Co.
to use patent rights
or inventions owned
by Tel. Co.

Railway messages
to be transmitted
free between stations
on its line and
between said
stations and stations
on D. & R. G.
and C. M.

Tel. Co. to issue
annual franks to
officers designated
by Ry. Co. for
messages pertaining
to business of Ry. up
to a certain amount.

done thereon without interference with railroad business.

It is further understood and agreed that the operation and connections of wires put up exclusively for commercial business shall be under the sole control of the Telegraph Company.

Third. If the Railway Company shall at any time require the exclusive use on any portion of its roads of more than two wires, the Telegraph Company shall, within sixty days after receipt by it of written notice so to do, either set apart, or furnish material for an additional wire for the transmission of messages on the Railway Company's railroad business exclusively, the Railway Company agreeing to pay to the Telegraph Company the cost to it of such additional wire, including the insulators thereunto belonging, on the poles, or the cost of the material for the construction of said additional wire delivered at some point on the line of said railroad, the Railway Company to furnish the labor to erect the same on the poles, as hereinbefore provided.

Fourth. The Railway Company shall have the right to the free use of any telegraphic patent rights or new discoveries or inventions that the Telegraph Company now owns and uses in its general telegraph business, or which it may hereafter own and use as aforesaid, so far as the same may be necessary to properly carry on the business of railroad telegraphing on the line of said railroads as provided for herein.

Fifth. All messages of the officers and agents of the Railway Company, pertaining to its railroad business, may be transmitted free of charge over railroad wires by railroad operators between all telegraph stations on the line of its railroads, and between such stations and stations on the Denver and Rio Grande and Colorado Midland Railroads.

The Telegraph Company agrees to issue to such officers of the Railway Company as may be designated by the President or General Manager of the Railway Company, annual franks authorizing the free transmission of messages pertaining strictly to the railroad or corporate business of

the Railway Company, originating at or destined to points on the Telegraph Company's lines in the United States, beyond or off the line of the Rio Grande Junction, the Denver and Rio Grande and Colorado Midland Railroads, to an amount not exceeding six hundred and fifty dollars (\$650.00) per annum for the first sixty-five (65) miles of railroad owned or controlled and operated by the Railway Company party hereto and occupied by a telegraph line constructed, maintained and operated thereon under the provisions of this agreement, and six dollars (\$6.00) per annum additional for each additional mile of railroad constructed, owned or controlled and operated by the Railway Company party hereto and occupied as aforesaid.

Agreement between
R. G. J. and W. U.
Tel. Co.

The tolls on all of such messages to or from points beyond or off the line of said railroads shall be calculated at the regular commercial day rates of the Telegraph Company, between the points at which such messages originate and the points to which they may be destined. And the Railway Company agrees to pay to the Telegraph Company one-half of its aforesaid rates on all such messages in excess of said amount. Settlements to be made yearly.

Ry. Co. to pay
Tel. Co. one-half of
regular commercial
rates on all franked
messages in excess
of limited amount

It is understood and agreed that the free telegraphic service herein provided for applies only to the transmission of messages concerning the operation and business of the Railway Company's railroads, and shall not be extended to any messages for transmission by cable, nor to messages ordering freights or other accommodations for customers of the Railway Company, the tolls on which messages should properly be chargeable to such customers.

Limits of free
telegraphic service.

Sixth. Either party to this agreement may establish and maintain telegraph stations at such points on said Rio Grande Junction Railroad as it may deem necessary, and at all such stations as the Railway Company may establish, the Telegraph Company agrees to supply instruments and local batteries and blank forms and stationery for commercial business. The Telegraph Company further agrees to furnish the use of its main batteries for the operation of the wires herein provided for. The Railway Company agrees to furnish free of charge in its station houses suit-

Provisions for
telegraph stations.

Agreement between
R. G. J. and W. U.
Tel. Co.

At telegraph stations
of Ry. Co. its
employees shall
receive and transmit
commercial messages
and render account.

Cable messages.

Ry. Co. may retain
ten per cent. of cash
receipts of telegraph
stations as compensa-
tion for services of its
employees.

Remainder of receipts
to be paid to Tel. Co.

Ry. Co. shall not
transmit free
messages without
consent except as
provided herein, and
shall conform to
regulations of Tel. Co.

Ry. Co. not to do any
commercial business
where Tel. Co. has
an office without
consent.

When commercial
business at the office
maintained by Ry.
Co. exceeds a certain
amount, Tel. Co.
shall furnish operator.

able space for main batteries if and when required by the Telegraph Company.

At all telegraph stations of the Railway Company its operators and other employees, acting as agents of the Telegraph Company, shall receive, transmit and deliver such commercial or public messages as may be offered at the tariff rates of the Telegraph Company, and shall render to the Telegraph Company monthly statements of such business and full accounts of all receipts therefrom.

All tolls on ocean cable messages, and tolls belonging to lines not owned or worked by the Telegraph Company, party hereto, shall be paid in full by the Railway Company to the Telegraph Company in such manner and at such times as it may direct.

As compensation to the Railway Company for the services of its employees acting as agents of the Telegraph Company in the transaction of commercial or public telegraph business, as hereinbefore provided, the Railway Company may retain ten (10) per centum of the cash receipts of telegraph stations maintained and operated by it, tolls on ocean cable messages, and tolls for lines of other companies excepted, as hereinbefore mentioned.

The remainder of such cash receipts shall be paid by the Railway Company to the Telegraph Company in such manner, and at such times, as it may direct.

And the employees of the Railway Company shall not, without the consent of the Telegraph Company, transmit over said telegraph lines any free messages except those provided for herein, and concerning all telegraph business, whether paid or free, shall conform to all rules, regulations and orders of the Telegraph Company applicable thereto.

And the Railway Company agrees that its employees shall do no commercial or public telegraph business at any point where the Telegraph Company may have an office without the Telegraph Company's consent.

It is understood and agreed that whenever the commercial or public telegraph business at any office maintained and operated by the Railway Company shall exceed three

thousand (3000) paid and collect messages sent from said office in any one year, then the Telegraph Company shall furnish an operator for such office, and said operator acting for and as the agent of the Railway Company shall thereafter attend to the railroad telegraph business of the Railway Company as hereinafter provided, it being understood that so long as the Telegraph Company maintains said office in the railroad station house, the Railway Company shall be entitled to the percentage of receipts hereinbefore provided for.

Agreement between
R. G. J. and W. U.
Tel. Co.

Seventh. If the Telegraph Company elects to establish an office at a station of the Railway Company, the Railway Company shall furnish office room, light and fuel free of charge in such station, and if at such station one person can attend to the telegraph business of both parties hereto, the agent of the Telegraph Company, acting for and as the agent of the Railway Company in the premises, shall do such business of the Railway Company without charge, it being understood that so long as the Telegraph Company maintains said office in the railroad station house, the Railway Company shall be entitled to the percentage of receipts hereinbefore provided for. Whenever the telegraph business of both parties hereto at any office where the Telegraph Company furnishes the operator becomes so large that more than one operator is needed to attend to it, then the Railway Company shall employ and pay its own operator.

Provisions for offices
of Tel. Co. at stations
of Ry. Co.

Eighth. The Railway Company, so far as it legally may, hereby grants and agrees to assure to the Telegraph Company, during the continuance of this contract and until notice of an intention to terminate the same as hereinafter provided shall have been given, the exclusive right of way on, along and under the line, lands and bridges of the Railway Company, and on any extensions and branches thereof, for the construction, maintenance, operation and use of lines of poles and wires or underground or other lines for commercial or public uses or business with the right to put up or cause to be put up under the provisions of this agreement from time to time such additional wires

Ry. Co., so far as it
legally may, grants
right of way to
Tel. Co. along its line,
extensions and
branches.

**Agreement between
R. G. J. and W. U.
Tel. Co.**

**Ry. Co. agrees to
keep right of way
clear of trees, under-
growth, and other
obstructions, and not
to transport men or
materials of any
competing tel. line,
except at regular local
rates.**

**Tel. Co. may use
name of Ry. Co.
indemnifying it for
damages.**

**Provisions in case
Tel. Co. is required
to place its wires
underground.**

or such additional lines of poles and wires or to construct or cause to be constructed such underground lines as the Telegraph Company may deem expedient, and the Railway Company agrees to clear and keep clear said right of way of all trees, undergrowth and other obstructions to the construction and maintenance of the lines and wires provided for herein, and the Railway Company will not transport men or material for the construction or operation of a line of poles and wire or wires or underground or other lines in competition with the lines of the Telegraph Company party hereto, except at and for the Railway Company's regular local rates, nor will it furnish for any competing line any facilities or assistance that it may lawfully withhold, nor stop its trains nor distribute material therefor at other than regular stations.

PROVIDED ALWAYS, that in protecting and defending the exclusive grants conveyed by this contract, the Telegraph Company may use and proceed in the name of the Railway Company, but shall indemnify and save harmless the Railway Company from any and all damages, costs, charges and legal expenses incurred therein or thereby.

It is agreed that in case the Telegraph Company shall at any time during the continuance of this agreement be required by law to place its wires underground along any of the railroads covered by this agreement, the Telegraph Company shall furnish at its expense the necessary material and a foreman, and the Railway Company shall furnish at its expense all of the labor necessary to perform the work under the direction of the Telegraph Company's foreman. If it should be more desirable and economical to place such wires under any street of a town or city through which the railroad may run, instead of placing the wires under the railroad right of way, the Railway Company agrees to furnish all of the labor necessary to do the work as hereinbefore provided, but nothing herein contained shall be so construed as to require the Railway Company to furnish labor for the construction of underground lines from the depots or station houses to the Telegraph Company's main office in any town or city.

At places where the Telegraph Company employs linemen for repairs to its lines not covered by this agreement, such linemen shall, when necessary in cases of emergency and when practicable to do so without interfering with their other duties, be sent out by the Telegraph Company's superintendent or manager to repair interruptions to wires along the roads covered by this agreement.

Agreement between
R. G. J. and W. U.
Tel. Co.

Provision for repairs
by linemen.

Ninth. The Railway Company agrees to transport free of charge over its railroads, upon application of the superintendent or other officer of the Telegraph Company, all persons in the employ of the Telegraph Company, when travelling on the business of said company; and also to transport and distribute free of charge along the line of its railroads, and to cause to be transported free over the Denver and Rio Grande Railroad or the Colorado Midland Railroad, or both, all poles and other material for the construction, maintenance, operation, repair and reconstruction of the lines and wires covered by this agreement, and of such additional wires or lines of poles and wires as may be erected under the provisions of this agreement; and also all material and supplies for the establishment, maintenance and operation of the offices of either party hereto along or adjacent to the Railway Company's railroads; it being understood that no charge shall be made for the transportation of employes, poles or other material and supplies over any of the Railway Company's railroads covered by this agreement, or over the Denver and Rio Grande and Colorado Midland Railroads, for use on the Railway Company's railroads covered by this agreement.

Ry. Co. shall
transport free of
charge all employees
of Tel. Co. travelling
on business of said
Co. and also over its
line and on D. & R. G.
& C. M. all materials
and supplies covered
by this agreement.

And the Railway Company further agrees to transport over its railroads without charge the poles and other material and supplies of the Telegraph Company to be used on its lines on the Denver and Rio Grande and Colorado Midland Railroads; and also to further transport without charge, over its railroads the poles and other material and supplies of the Telegraph Company for use beyond or off the line of the Rio Grande Junction, the Denver and Rio Grande and Colorado Midland Railroads, to an amount computed at the regular current transportation rates of said

Also materials and
supplies to be used
on lines of D. & R. G.
& C. M.

Also materials and
supplies for use
beyond said lines,
to an amount not
exceeding one-third
of free telegraphic
service beyond line
of said railroads.

Agreement between
R. G. J. and W. U.
Tel. Co.

Tel. Co. to pay half
rates on all transpor-
tation in excess of
said amount.

Telegraph business
to be controlled and
regulated by Tel. Co.
as part of its system.

No employee of
Ry. Co. shall be in
employ of any other
tel. co., and Tel. Co.
shall have exclusive
right in stations
as against any other
tel. co.

Ry. Co. not to be
liable for damages
to persons or property
carried free under
this agreement,
nor for neglect in
transmission or
delivery of messages
for Tel. Co.

Railway Company, not exceeding one-third ($\frac{1}{3}$) of the amount of free telegraphic service which the Telegraph Company herein agrees to perform for the Railway Company beyond the line of its railroads; and the Telegraph Company agrees to pay to the Railway Company one-half of its aforesaid rates on all such transportation of poles and other materials in excess of said amount. Settlements to be made yearly.

Tenth. It is mutually understood and agreed that the telegraph lines and wires covered by this contract shall form part of the general system of the Telegraph Company, and as such in the department of commercial or public telegraph business, shall be controlled and regulated by it, the Telegraph Company fixing and determining all tariffs for the transmission of messages, and all connections with other lines. The Railway Company further agrees that its employees shall transmit over the lines covered by this agreement, all commercial telegraph business offered at the Railway Company's offices, and shall account to the Telegraph Company exclusively for all of such business and the receipts thereon, as provided herein.

No employee of the Railway Company shall while in its service, be employed in the transaction of commercial or public telegraph business by any other telegraph company than the Telegraph Company party hereto, and the Telegraph Company shall have the exclusive right to the occupancy of the Railway Company's depots or station houses for commercial or public telegraph purposes as against any other telegraph company.

Eleventh. It is a condition of this contract that the Railway Company is not to be responsible for, and the Telegraph Company hereby covenants and agrees to save the Railway Company harmless and indemnify it against any loss or damages of any kind arising from any injury to persons in the employ of or property belonging to the Telegraph Company, while being carried free over said roads under this agreement, or from any neglect or failure in the transmission or delivery of messages for any person doing business with the Telegraph Company, or on account

of any other public telegraph business; and the Telegraph Company shall not be responsible for, and the Railway Company agrees to indemnify and save harmless the Telegraph Company against any loss or damages of any kind arising from or on account of any error or failure in the transmission or delivery of messages sent for the Railway Company under this agreement.

Agreement between
R. G. J. and W. U.
Tel. Co.

Tel. Co. not to be
liable for errors or
failure in transmission
or delivery of
messages sent for
Ry. Co. under this
agreement.

Twelfth. The provisions of this agreement shall extend to all railroads now owned, leased, controlled or operated, and to all railroads hereafter owned, leased, controlled or operated, by the Railway Company or by any company or corporation in which the Railway Company may own a majority of the stock or whose action it may be able to control, by the ownership of stock or otherwise, and the provisions of this agreement shall be and continue in force for and during the term of twenty-five (25) years from the first (1st) day of June, 1890; and shall continue after the close of said term until the expiration of one (1) year after written notice shall have been given after the close of said term by either party to the other of an intention to terminate the same, and in case of any disagreement concerning the true intent and meaning of any of said provisions, the subject of such difference shall be referred to three arbitrators, one to be chosen by each party hereto, and the third by the two others chosen, and the decision of such arbitrators, or of a majority thereof, shall be final and conclusive.

Agreement to extend
to all railroads
owned, leased,
controlled or
operated by Ry. Co.

Agreement to
continue for 25 years
from June 1, 1890,
and thereafter until
one year after
written notice.

Provision for
arbitration in case
of disagreement.

IN WITNESS WHEREOF the parties to these presents have caused the names of their proper officers to be hereunto subscribed and their corporate seals to be attested, the day and year first above written.

Attesting clause.

THE WESTERN UNION TELEGRAPH COMPANY.

[SEAL] By JNO. VAN HORN,
Vice-President.

A. R. BREWER,
Secretary.

Authorization of
foregoing agreement.

THE RIO GRANDE JUNCTION RAILWAY COMPANY.

[SEAL]

By S. T. SMITH,
Vice-President.

E. R. MURPHY,
Secretary.

Meeting of Ex. Com.
of W. U. Tel. Co.
June 4, 1890.

EXECUTIVE OFFICE

Western Union Telegraph Company,

NEW YORK, June 4th, 1890.

EXTRACT FROM MINUTES OF EXECUTIVE COMMITTEE MEETING HELD JUNE 4TH, 1890.

"Contracts recommended by the Law Committee were submitted and action taken thereon as follows:

"RIO GRANDE JUNCTION RAILWAY COMPANY. Dated May 19th, 1890. Providing for the construction, maintenance and operation of telegraph lines on line of railroad between Rifle Creek and Grand Junction, Colo., and extensions and branches thereof, etc., etc. Term, twenty-five years and one year's notice.

Resolution
authorizing
execution of
foregoing agreement.

"On motion, it was, Resolved: That said contract be approved and its execution under the seal of the Company authorized."

A true copy from the Minutes.

[SEAL]

A. R. BREWER,
Secretary.

Meeting of Directors
of R. G. J. Ry. Co.
June 17, 1890.

DENVER, COLORADO, February 21st, 1891.

EXTRACT FROM MINUTES OF MEETING OF THE DIRECTORS
OF THE RIO GRANDE JUNCTION RAILWAY COMPANY,
JUNE 17TH, 1890:

Resolution
authorizing
execution of
foregoing agreement.

"Resolved that the contract this day submitted to the Board between this Company and the Western Union Telegraph Company, bearing date of May 19th, 1890, provid-

ing for the construction, maintenance and operation of telegraph lines on this Company's line of railroad between Rifle Creek and Grand Junction, Colorado, and the extensions and branches thereof, be, and the same is hereby approved, and the execution of the same under the seal of this Company is hereby authorized and directed."

Authorisation of
foregoing agreement

I hereby certify that the foregoing is a correct transcript from the minutes of a special meeting of the Directors held June 17th, 1890.

[SEAL]

E. R. MURPHY,
Secretary.

DOCUMENTS

RELATING TO

THE BUSK TUNNEL RAILWAY COMPANY.

**Tunnel and railway
in process of
construction.**

The tunnel and railway of this Company are still in process of construction. There will be about 9000 feet of the tunnel when completed, of which 6000 feet have already been made. The contract for the construction of this tunnel required its completion in June 1892, but the nature of the material encountered has retarded the prosecution of the work.

Mileage.

The mileage of The Busk Tunnel Railway Company will be 3.05 miles, of which 1.78 miles will be within the tunnel and 1.27 miles of track outside. This mileage will probably be turned over to The Colorado Midland Railway Company sometime in the autumn of 1893. It is not included in the present mileage of that Company, as stated *ante*, p. 532.

ARTICLES OF INCORPORATION

OF

THE BUSK TUNNEL RAILWAY COMPANY

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } SS.

Certificate of Sec'y
of State.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Incorporation of The Busk Tunnel Railway Company which was filed in this Office the Sixteenth day of June, A.D. 1890, at 1 o'clock P.M., and admitted to record.

Articles filed
June 16, 1890.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Fourteenth day of July A.D. 1892.

[SEAL]

E. J. EATON,
Secretary of State.

ARTICLES OF INCORPORATION OF THE BUSK TUNNEL RAILWAY COMPANY.

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, LUCIUS M. CUTHBERT, CHARLES S. LEE, WILLIAM N. DAVIDSON, DANIEL B. ELLIS and EDWARD T. COLLBRAN, all residents of the City of Denver and State of Colorado, desiring to associate ourselves under and in pursuance of the provisions of the laws of the State of Colorado, relating to the formation of Corporations, and to form a Company thereunder for the purposes set forth in the following Articles, do make, sign and acknowledge these our original Articles of Incorporation, and do state and declare as follows, to wit:

Names of
incorporators.

FIRST: The corporate name of the said Company shall be "THE BUSK TUNNEL RAILWAY COMPANY."

Corporate name.

Art. of Inc.
Busk Tunnel
Ry. Co.
Authorized
line of railroad.

SECOND: The said Company is organized and created for the objects and purposes of constructing and operating a railroad commencing at a point on the Colorado Midland Railway in Township nine (9) South, Range Eighty-one (81) West of the Sixth Principal Meridian, County of Lake, State of Colorado, near the railway station known as Busk, running thence in a general westerly direction, by the most feasible route, to a point, on said Colorado Midland Railway, in Township nine (9) South, Range Eighty-two (82) West of the Sixth Principal Meridian, County of Pitkin, State of Colorado, at or near the railway station known as Ivanhoe, including necessary side tracks and such spurs and branches as may be requisite or desirable to enable the said Company to reach mines, smelters or other works or properties adjacent to its railway.

Corporate powers.

The said Company shall have power to construct or acquire, by purchase, lease or otherwise, such tunnel or tunnels as may be necessary or desirable for the operation of its said railway; to construct or acquire, by purchase or otherwise, and to operate a line or lines of telegraph in connection with said railway; to lease to any other railway or telegraph company or companies, its railway or railways or telegraph lines, or any portion thereof, upon such terms as may be agreed upon between this Company and such other company or companies; to establish, maintain and conduct an express business, along and upon said railway and upon any other railway connected therewith; to purchase, acquire, hold, manage and operate, by lease, consolidation or otherwise, other railways situate within or without said State of Colorado, whenever and as thereunto duly authorized by law; to purchase, acquire, own and hold coal and other mines, stone quarries and timber lands adjacent, or tributary to, its said railway, and to use, operate and manage the same, or any part thereof, if deemed essential to the promotion of its interests; to purchase, acquire, own, hold, use and maintain all such real and personal property as may be necessary for or may contribute to the attainment of the objects of its existence or the transaction of its business, and, from time to time, to lease or sell the

same or any part thereof, when, in the judgment of its Board of Directors, such property is no longer needed for the uses of the Company; to purchase, acquire, own, hold and dispose of, in furtherance of the objects and purposes for which this Company is formed, stocks, bonds and securities of other railway corporations, or of any corporations, companies or associations, with power to endorse or guarantee the payment of such bonds or other securities; to borrow money, and to execute and issue its bonds or other securities therefor, and to mortgage its property and franchises as security for such bonds or other obligations; to exercise the right of eminent domain; to cross, intersect or connect its railway with any other railway or railways; to operate exclusively, or jointly with the owners thereof, its trains, over any railway which now exists, or which may hereafter exist, and with which its railway may at any time be connected; to do any act or transact any business which common carriers of persons and property may lawfully do, and, generally shall have all other powers granted to, or acquired by, railway or railroad companies, by, under or in pursuance of the laws of the State of Colorado.

Art. of Inc.
Busk Tunnel
Ry. Co.

THIRD: It is intended to construct the said proposed railroad of the said Company from a point on the Colorado Midland Railway in Township nine (9) South, Range Eighty-one (81) West of the Sixth Principal Meridian, County of Lake, State of Colorado, near the railway station known as Busk with a tunnel through the main range of the Rocky Mountains to a point on said Colorado Midland Railway, in Township nine (9) South, Range Eighty-two (82) West of the Sixth Principal Meridian, County of Pitkin, State of Colorado, at or near the Railway Station known as Ivanhoe.

Line of proposed
road.

FOURTH: The term of the existence of the said Company shall be fifty (50) years from the date of the filing of this certificate in the office of the Secretary of State of Colorado, and its corporate existence may be renewed in such manner and for such periods as may be authorized by the laws of said State.

Term of corporate
existence.

FIFTH: The capital stock of the said Company shall be

Capital stock.

Art. of Inc.
Busk Tunnel
Ry. Co.

Ten Thousand Dollars (\$10,000.00) divided into one hundred (100) shares, of the par value of One Hundred Dollars (\$100) each.

Names and
residences of
incorporators.

SIXTH: The names and places of residence of the several persons forming the association for incorporation of said Company, are as follows:

<i>Name.</i>	<i>Place of Residence.</i>
LUCIUS M. CUTHBERT,	Denver, Colorado.
CHARLES S. LEE,	Denver, Colorado.
WILLIAM N. DAVIDSON,	Denver, Colorado.
DANIEL B. ELLIS,	Denver, Colorado.
EDWARD T. COLLBRAN,	Denver, Colorado.

Directors.

SEVENTH: The government of the said Company and the management of its affairs shall be vested in a Board of Directors. The number of Directors shall be five, and Arthur W. Sherman, William Henry Reese, George W. Bashford, Joseph H. Bond and Charles E. Sands, of the City of New York in the State of New York, shall constitute such Board of Directors and manage the affairs of the said Company for the first year of its existence.

Counties in which
business is to be
carried on.
Principal office.

EIGHTH: The principal business of the said Company shall be carried on in the Counties of Arapahoe, Lake and Pitkin, Colorado. The principal office of the Company shall be kept in the City of Denver, County of Arapahoe aforesaid.

May carry on part
of business outside
of State, and may
maintain offices in
New York and
elsewhere.

The Company shall have power to carry on a part of its business beyond the limits of the State of Colorado, as may become necessary, and may establish and maintain offices in the City of New York, State of New York, and elsewhere, as its By-Laws may provide.

Directors may make
by-laws

NINTH: The Board of Directors of this Company shall have power to make, from time to time, such By-Laws as they may deem proper for the management of the affairs of the Company, not inconsistent with the laws of this State.

Meetings of directors
may be held in New
York or elsewhere.

Meetings of the Board of Directors of the Company may be held in the City of New York and State of New York, and elsewhere within or without the State of Colorado, as may be provided by the By-Laws of the Company.

IN WITNESS WHEREOF, we have hereunto set our hands and seals and prefixed our respective places of residence, this 14th. day of June, A.D. 1890.

Art. of Inc.
Busk Tunnel
Ry. Co.

Attesting clause.

DENVER, COLO.,	L. M. CUTHBERT	[SEAL]
DENVER, COLO.,	CHAS. S. LEE	[SEAL]
DENVER, COLO.,	WILLIAM N. DAVIDSON	[SEAL]
DENVER, COLO.,	DANIEL B. ELLIS	[SEAL]
DENVER, COLO.,	EDWARD T. COLLBRAN	[SEAL]

STATE OF COLORADO, }
COUNTY OF ARAPAHOE, } ss.

Acknowledgments.

I, L. B. Johnson, a Notary Public within and for said County and State, do hereby certify that on this 14th. day of June A.D., 1890, personally appeared before me LUCIUS M. CUTHBERT, CHARLES S. LEE, WILLIAM N. DAVIDSON, DANIEL B. ELLIS and EDWARD T. COLLBRAN each to me personally known to be the same person described in and whose name is subscribed to the foregoing Certificate of Incorporation, and each for himself acknowledged that he signed and sealed the same as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 14th. day of June A.D. 1890.

L. B. JOHNSON,

[SEAL]

Notary Public.

My commission expires Dec. 24, 1892.

(ENDORSED)

THE BUSK TUNNEL RAILWAY COMPANY.

ARTICLES OF INCORPORATION.

DOMESTIC.

Endorsement as
to filing and recording
of foregoing articles.

FILED in the office of the Secretary of State, of the State of Colorado, on the 16 day of June A.D. 1890, at 1 o'clock, P.M.

Recorded in Book 22 Page 353.

JAMES RICE,

Secretary of State.

CERTIFICATE OF PAID UP STOCK

OF

THE BUSK TUNNEL RAILWAY COMPANY.

Certificate of
Secretary of State.

UNITED STATES OF AMERICA, }
STATE OF COLORADO, } ss.

I, E. J. Eaton, Secretary of State, of the State of Colorado, do hereby certify that the annexed is a full, true and complete transcript of the Certificate of Paid up Stock of The Busk Tunnel Railway Company which was filed in this Office the Tenth day of March A.D. 1891 at 1.55 o'clock P.M., and admitted to record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this Fourteenth day of July A.D. 1892.

E. J. EATON,

[SEAL]

Secretary of State.

Certificate that all
of capital stock is
fully paid.

**THE BUSK TUNNEL RAILWAY COMPANY. CERTIFICATE OF
FULL PAID STOCK.**

We the undersigned, President and a majority of the Board of Directors of The Busk Tunnel Railway Company, do hereby certify that the amount and par value of the Capital Stock of said Company as fixed by its Certificate of Incorporation, is Ten Thousand Dollars (\$10,000), and that said amount and par value of Ten Thousand Dollars (\$10,000) has been paid in to said Company for said Stock.

A. W. SHERMAN,

President.

G. W. BASHFORD
WM. HENRY REESE
J. H. BOND
CHAS. E. SANDS } *Directors.*

STATE OF NEW YORK,
COUNTY AND CITY OF NEW YORK, } ss.

SUBSCRIBED AND SWORN TO before me this 7th day of
March, A.D. 1891.

[SEAL]

JOHN FARRELL,
Notary Public.
N.Y. Co.

(ENDORSED.)

THE BUSK TUNNEL RAILWAY COMPANY.

CERTIFICATE OF FULL PAID STOCK.

DOMESTIC.

Endorsement as
to filing and recording
of foregoing
certificate.

FILED in the office of the Secretary of State, of the State
of Colorado, on the 10 day of March A.D. 1891, at 1.55
o'clock, P.M.

Recorded in Book 26 Page 332.

E. J. EATON,
Secretary of State.

By G. W. TEMPLE,
Depty.

Fees 1-pd.

FIRST MORTGAGE

OF

THE BUSK TUNNEL RAILWAY COMPANY.

June 17, 1890.
Parties.

THIS INDENTURE, made and entered into this seventeenth day of June, in the year one thousand eight hundred and ninety, by and between the Busk Tunnel Railway Company, hereinafter termed the Railway Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Colorado, party of the first part, and the Continental Trust Company, of the City of New York, hereinafter termed the Trustee, or the said Trustee, a corporation duly organized and existing under and by virtue of the laws of the State of New York. party of the second part.

Authorized line
of railroad.

WHEREAS the Railway Company is, under and by virtue of the laws of the State of Colorado, and of its certificate of Incorporation, authorized to locate, construct, maintain, and operate, a railway, from a point on the Colorado Midland Railway, in Township Nine South Range 81 west of the sixth principal meridian, County of Lake, State of Colorado, near the Railway Station known as Busk, thence crossing the Range of Mountains commonly known as the Saguache Range, by the most feasible route, to a point on said Colorado Midland Railway, in Township Nine South Range 82, west of the sixth principal meridian, County of Pitkin, Colorado, at or near the Railway Station known as Ivanhoe, with the necessary side-tracks and other appurtenances of a railway, and in the pursuance of said authority and power, is now about to enter upon the construction of its said railway, and

Resolutions of
directors and
stockholders
authorizing issuing
of bonds.

WHEREAS, in order to raise money to complete and finish its line of railway, and in pursuance of resolutions to that effect, duly passed by its Board of Directors, and by the unanimous vote of the holders of all its stock, at a special

Meeting of said Stockholders, duly called for that purpose, the Company is about to issue its fifteen hundred bonds, for one thousand dollars each, to bear date the first day of July, 1890, and to be payable the first day of July, 1935, and substantially in the following form:

First Mortgage
Busk Tunnel Ry. Co.

UNITED STATES OF AMERICA.

Form of bond.

STATE OF COLORADO.

THE BUSK TUNNEL RAILWAY COMPANY.

FIRST MORTGAGE SEVEN PER CENT. GOLD BOND.

Total authorized issue, \$1,500,000.

No.

\$1,000

For value received, the Busk Tunnel Railway Company, a corporation of the State of Colorado, promises to pay the bearer of this bond, or, if registered, to registered owner thereof, at its agency in the City of New York, on the first day of July, nineteen hundred and thirty-five, one thousand dollars in gold coin of the United States, of or equal to the present standard of weight and fineness, with interest thereon from the first day of July, 1890, in like gold coin, at the rate of seven per cent. per annum, payable at said Agency semi-annually, on the first days of January and July of each year, upon presentation and surrender of the annexed interest coupons, as they severally become due.

IT IS AGREED, however, by the holder of this bond, that the said Railway Company, its successors, or assigns, shall have the right, upon any interest day, after five years from the date hereof, to redeem this bond at one hundred and five per cent. of the par value thereof, in the manner provided in the mortgage or deed of trust securing the same. This bond is one of a series of mortgage bonds, of like tenor and date, each of the denomination of one thousand dollars, numbered consecutively from one (1) to fifteen hundred (1500) inclusive, all equally secured by a mortgage or deed of trust, dated June seventeenth, 1890, exe-

First Mortgage
Busk Tunnel Ry. Co.
Form of bond.

cuted by the said Railway Company to the Continental Trust Company of the City of New York, as Trustee, and duly recorded, conveying to said Trustee all of the railway property and franchise of said Railway Company, now owned or hereafter to be acquired, as specified in said mortgage or deed of trust, to which reference is hereby made for a description of the property and franchises mortgaged, and for the terms and conditions upon which this bond is issued and secured.

The aggregate issue and certification of bonds under said mortgage or deed of trust is limited as provided therein to one million five hundred thousand dollars. If default shall be made in the payment of any semi-annual instalment of interest when the same shall become due and be demanded, and such default shall continue for six months after such demand, the principal of this bond shall, at the option of the holders of a majority of the amount of the said bonds then outstanding, become due and payable in the manner provided in said mortgage or deed of trust. Said Railway Company hereby waives the benefit of any extension, stay, or appraisal laws, now existing, or that may hereafter exist.

This bond shall pass by delivery, unless registered, and if registered, by transfer on the books of said Railway Company, at its agency in the City of New York. If registered no transfer except on said books shall be valid, unless the last transfer shall have been to bearer, which shall restore transferability by delivery, but this bond shall continue subject to successive registrations and transfers to a party named, or to bearer, as aforesaid, at the option of each holder. Registration hereof shall not restrain the negotiability of the coupons by delivery. This bond shall not become obligatory upon said Railway Company until the certificate endorsed hereon shall be signed by said Trustee.

IN WITNESS WHEREOF the said the Busk Tunnel Railway Company has caused this bond to be subscribed by its President, and its Corporate seal to be hereto affixed and attested by its Secretary, and has likewise caused a fac-

simile of the signature of its Treasurer to be engraved on each of the annexed coupons this seventeenth day of June, 1890.

First Mortgage
Busk Tunnel Ry. Co.
Form of bond.

THE BUSK TUNNEL RAILWAY COMPANY.

By

President.

Attest:

Secretary.

[FORM OF EACH INTEREST COUPON.]

\$35.

No.

The Busk Tunnel Railway Company will pay the bearer at its fiscal agency, in the City of New York, thirty-five dollars, in gold coin of the United States of America, on the first day of being six months interest on its first mortgage seven per cent. gold bond.

No.

Treasurer.

[FORM OF TRUSTEE'S CERTIFICATE.]

The Continental Trust Company of the City of New York hereby certifies that the within bond is one of the bonds issued in conformity with and described in the mortgage or deed of trust mentioned within.

CONTINENTAL TRUST COMPANY OF THE CITY OF NEW YORK.

President.

And

WHEREAS, in further pursuance of said resolutions, the Railway Company has determined to secure the payment of its said bonds so to be issued by a mortgage or deed of trust on all its property and franchises, as hereinafter provided:

NOW THEREFORE THIS INDENTURE

WITNESSETH that the Railway Company in consideration of the premises, and of one dollar to it in hand paid

Proposed mortgage.

Granting clause.

First Mortgages
Busk Tunnel Ry. Co.

Description of
property mortgaged.

by the Trustee at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the punctual payment of the principal and interest of the bonds aforesaid to be issued, hereinbefore mentioned, hath granted, bargained, sold, assigned, transferred, set over, released, conveyed and confirmed, and by these presents does grant, bargain, sell, assign, transfer, set over, release, convey, and confirm, unto the Trustee, and its successor or successors all the line of railway of the Railway Company, located and to be located, constructed and to be constructed, beginning at a point on the Colorado Midland Railway, in Township Nine South Range 81 west of the sixth principal meridian, County of Lake, State of Colorado, near the Railway Station known as Busk, thence crossing the range of mountains commonly known as the Saguache Range, by the most feasible route, to a point on said Colorado Midland Railway in Township Nine South Range 82 west of the sixth principal meridian, County of Pitkin, Colorado, at or near the Railway Station known as Ivanhoe, and any extension thereof, or additions thereto hereafter constructed or acquired, and its lines of telegraph, used or to be used in connection with its said lines of railway, and all rolling stock and equipment, of whatever nature or kind, owned and hereafter to be acquired by the Railway Company, for the purpose of operating its lines of railway and telegraph; also all the lands, tenements, and hereditaments, acquired or appropriated, or which may hereafter be acquired or appropriated for the purpose of right of way for its line of railway above described, or said other lines hereafter to be acquired or constructed, and all the easements or appurtenances thereunto belonging or in any way appertaining, and all railways, ways and rights of way, tunnels, tunnel rights, depot grounds, tracks, bridges, viaducts, culverts, fences, and other structures, engine-houses, freight-houses, car-houses, wood-houses, ware-houses, machine-shops, work-shops, superstructures, and erections, whether now in existence or hereafter at any time acquired for the use of or in connection with its lines of railway:

also all rails, ties, chairs, machinery, tools, implements, fuel, and materials whatsoever, for or in respect of the constructing or replacing of the same or any part thereof, whether now held or owned, or hereafter to be acquired by the Railway Company, together with all equipment and appurtenances whatsoever thereunto belonging, whether now held or hereafter acquired, and all replacements and renewals, and also all franchises connected with or belonging to its line of railway and telegraph, or to the construction, maintenance, or use thereof, now owned, or to be hereafter acquired by the Railway Company, and all corporate franchises of every nature relating to its lines of railway and telegraph, which are now or may hereafter be possessed or exercised by the Railway Company, together with all and singular the endowments, income, advantages, tenements, hereditaments, and appurtenances to its lines of railway and telegraph, belonging or in anywise appertaining or to belong or in anywise appertain, and the reversion and reversions, remainder and remainders, tolls, incomes, rents, profits, and issues thereof: also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, present or prospective, of the Railway Company, in and to its lines of railway and telegraph, and every part of same, and every parcel thereof, with the appurtenances and all other property now owned or hereafter to be acquired by the Railway Company:

First Mortgage
Busk Tunnel Ry. Co.

To have and to hold all and singular the above described premises, property rights, franchises and appurtenances, to the trustee, its successor or successors, to the only proper use and behoof of the Trustee, its successor or successors, in trust for the equal pro-rata, benefit, and security of all and every of the person or persons, firm or firms, bodies politic or corporate, who or which shall at any time be or become the holders of any of said bonds, subject to the terms, provisions, covenants, and stipulations in said bonds contained without any preference or priority of any one bond over another by reason of priority in time of issuance or negotiation thereof or otherwise, in trust never-

Habendum clause.

**First Mortgage
Busk Tunnel Ry. Co.**

theless for the uses and purposes herein declared and expressed as follows, to wit:

ARTICLE I.

**Purposes to which
proceeds of bonds
shall be applied.**

All the said bonds, so to be certified and issued, shall be faithfully applied to the legitimate expenses and cost of survey, location, and construction of the said railway and telegraph line of the Railway Company, lying between said points, above specified, and to the other legitimate and necessary expenses of the Railway Company, incurred in connection with or in consequence of the survey, location, and construction of said railway and telegraph line, including interest accruing on said bonds during time of construction, and shall be certified by the Trustee, and delivered to the Railway Company, or to its order, in sums of not less than ten thousand dollars, upon the written application of the Railway Company, expressed through a resolution of its Board of Directors or Executive Committee adopted at a regular meeting, or at a special meeting called for that purpose, wherein it shall be stated what amount of bonds are required at the time, and the purpose for which the same are required, a copy of which resolution, duly certified under the seal of the Railway Company, shall be full authority and protection to the Trustee in certifying and delivering said bonds, and no duty is imposed upon the Trustee to look behind such resolution before certifying the bonds, and delivering the same to the Railway Company, Provided that it is the intent of this indenture that no further bonds shall be certified or issued after final completion of the said line of railway hereby mortgaged.

**Application by
Ry. Co. for
certification by
Trustee.**

**No further bonds
to be certified after
completion of
railway.**

ARTICLE II.

**Possession of
mortgagor until
default.**

Until default shall be made by the Railway Company, its successors, or assigns, in the payment of the interest on said bonds, or some, or one of them, as the same shall from time to time become due and payable, or in the payment of the principal of any of said bonds, or of some part of such principal, when and as the same shall become due, or in

the due and prompt payment, observance, and performance, of any one or more of the covenants or agreements herein contained on the part of the Railway Company, its successors or assigns, to be paid, kept, and performed, the Railway Company, its successors and assigns, shall be permitted to possess, manage, use, and enjoy, all and singular, the railway property and premises hereinbefore described, with the appurtenances thereof, and to exercise all the rights and franchises appertaining thereto, and to take and use the rents, incomes, profits, tolls, and issues thereof, in the same manner and with the same effect as if this indenture had not been made.

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Busk Tunnel Ry. Co.

ARTICLE III.

The Railway Company, in consideration of the premises, covenants, promises and agrees, to and with the Trustee, that it will well and truly pay and discharge or cause to be paid and discharged each and every tax and assessment or other liability and governmental charge which may from time to time be lawfully levied or imposed by competent authority upon the said railway property, premises, or upon any part thereof, the lien whereof might or could be held to be superior to the lien of this indenture, so that the priority of this indenture shall at all times be duly maintained and preserved, and will at all times keep insured, in good, safe, and reliable insurance companies its rolling stock, tools and machinery, buildings, bridges, and other structures, erected or to be erected by it, or on its said premises, and all other such property provided for use and used by it in connection with its lines of railway or telegraph herein described and hereby conveyed, as is usually insured by railway companies, and in the same manner and to the same extent, and will at all times diligently preserve all the rights and franchises to it granted and upon it conferred by the laws of the State of Colorado, and will at all times maintain, preserve, and keep all and singular the said lines of railway and telegraph now owned or possessed, or which may hereafter be constructed or acquired by it, and every part thereof, with

Covenants of Ry. Co.

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the rolling stock, fixtures, and appurtenances, and every part and parcel thereof, in good repair, working order, and condition, and fully supplied with motive power, rolling stock, and equipment, and shall and will from time to time make all needful and proper repairs, renewals, and replacements, useful alterations, additions and improvements so that the traffic and business of said lines of railway and telegraph, and of every part thereof, shall at all times be done with safety and expedition, and shall not and will not allow its tunnel to be or become obstructed by water, rock, or earth, in any manner, so as to prevent the use thereof for freight and passenger trains.

ARTICLE IV.

On default continued
for certain periods.
Trustee may enter
and take possession.

In case default shall be made by the Railway Company in the payment of the principal of or of any interest on any of the bonds secured by this indenture, according to the tenor and effect of such bonds, and the coupons thereto annexed, and such default shall continue for the period of 6 months after payment of the same shall have been duly demanded, or in case default shall be made by the Railway Company in the payment of any taxes, assessments, or governmental charges, lawfully levied and imposed upon the said railway property and premises, or any part thereof, and such default shall continue for the period of six months after such taxes, assessments, or governmental charge shall become due and payable, or in case default shall be made by the Railway Company in keeping insured its rolling stock, tools and machinery, buildings, bridges, and other structures as aforesaid, and such default shall continue for a period of ninety (90) days, or in case the Railway Company shall permit its tunnel to be or become obstructed by water, rock, or earth, in any manner so as to prevent the use thereof for freight or passenger trains, and shall suffer such obstructions to continue for the space of six months, or shall for any cause or reason suffer its said tunnel to remain unused by regular trains for said period, or in case default shall be made by the Railway Company in the due observance

any other of its covenants, promises, or agreements, herein required to be done, performed, or kept by it, and each default shall continue for the period of one year after demand of performance by the Trustee herein, then, and in each and every such case of default continued aforesaid, the Trustee, if it shall elect so to do, may, and if requested in writing by the holders of a majority of the bonds secured hereby and outstanding at the time of each default (and upon being properly indemnified) shall, by its attorney or attorneys, agent or agents, enter into and upon all and singular the railway property and premises, rights, interests, and franchises hereby conveyed or mortgaged, or intended so to be, and each and every part thereof, excluding therefrom the Railway Company, its agents, servants, and employees, and have and hold the same, use, operate, manage, and control said railway, regulate tolls for the transportation of passengers and freight therein, remove all obstructions from such tunnel, and make from time to time, at the expense of the trust estate, all repairs and replacements, and such useful alterations, additions and improvements thereto, as well in respect to the rolling stock or equipment as to the railway and its appurtenances, and conduct the business thereof by its attorneys, agents, superintendents, or managers, as may seem to it judicious, and for the best interests, as well of the public as of the holders of said bonds, and upon such duty, it shall be lawful for the trustee, its agents or attorneys, from time to time to insure or keep insured at the expense of the trust estate, the rolling stock, tools, and machinery, buildings, bridges, and other structures, erected and provided for use in connection with said railway, and hereof it shall become possessed, in the same manner and to the same extent as the railway company might have been, and to collect and receive all tolls, freights, or incomes, rents, issues, and profits of the same, and every part thereof, and after deducting the expenses of operating said railway and conducting the business thereof, and of all repairs, replacements, alterations and additions, betterments and improvements, and all payments which may be

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made for taxes, assessments, insurance, and other proper charges upon the said premises and property, or any part thereof, as well as a just and reasonable compensation for its own services, and the services of all attorneys, agents, clerks, servants, and other employees by it properly engaged or employed, to apply the moneys arising as aforesaid to the payment of the interest in arrear, if any, or which shall, after such entry, become due and payable on the outstanding bonds secured hereby, in the order in which such interest shall become due and payable ratably to the person or persons holding the coupons therefor, without any discrimination or preference between them on account of the date or dates of the maturing of said bonds, or the times of the actual issue thereof, and if, after paying all such interest, a surplus shall remain, such surplus shall be applied to the satisfaction of the principal of said bonds at the time due and unpaid, ratably, without discrimination or preference, as aforesaid.

ARTICLE V.

Power of sale on
default.

In case default shall be made, by the Railway Company in the payment of the principal of or of any interest on any of the bonds secured by this indenture, according to the tenor and effect of such bonds, and the coupons thereto annexed, and such default shall continue for the period of 6 months after payment of the same shall have been duly demanded, or in case default shall be made by the Railway Company in the payment of any taxes, assessments, or governmental charges, lawfully levied and imposed upon the said railway property and premises, or any part thereof, and such default shall continue for the period of six months after such taxes, assessments, or governmental charge shall become due and payable, or in case default shall be made by the Railway Company in keeping insured its rolling stock, tools, machinery, buildings, bridges, and other structures as aforesaid, and such default shall continue for a period of ninety (90) days, or in case the Railway Company shall permit its tunnel to be or become obstructed by water, rock, or earth, in any manner, so as to prevent the

use thereof for freight, or passenger trains, and shall suffer such obstruction to continue for the space of six months, or shall, for any cause, or reason suffer its said tunnel to remain unused by regular trains for said period, or in case default shall be made by the Railway Company in the due observance of any other of its covenants, promises, or agreements herein required to be done, performed, or kept by it, and such default shall continue for the period of one year after demand of performance by the Trustee herein, then and in each and every such case of default continued as aforesaid, it shall be lawful for the Trustee, after entry as aforesaid, or after other entry, or without entry, by its attorney or attorneys, agent or agents, if it shall elect so to do, to sell and dispose of, and if requested in writing by the holders of a majority of the bonds secured hereby and then outstanding, the Trustee shall sell and dispose of all and singular the railway property and premises, rights, interests, and franchises hereby conveyed or mortgaged or intended so to be, or from time to time, as it shall deem proper, or so much thereof as may be sold separately without material injury to the parties interested and be sufficient to pay the amount due on such bonds then outstanding for principal and interest, according to the terms thereof, together with costs and expenses of such sale, and of all right, title, interest, claim and demand whatsoever, benefit, equity of redemption, and statutory right of redemption of the Railway Company of, in, and to the same, or so much thereof as may be sold, and every part thereof, at public auction, at such place in the City of New York, New York, or in the City of Denver, Colorado, as it may designate, and at such time and upon such terms as may be specified in the notice of sale to be given as hereinafter provided for the highest and best price the same will bring. Before making such sale, the Trustee shall give notice of the time and place, when and where, and of the terms upon which the same is to be made, which notice shall contain a description of the premises and property to be sold, and shall be published not less than once each week for twelve weeks next preceding the time specified

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for such sale, in at least one newspaper published in the City of New York, New York, and in at least one newspaper published in the City of Denver, Colorado, with the right to adjourn such sale from time to time in the discretion of the Trustee, by giving reasonable notice of such adjournment or adjournments by advertisement appended to such notice of sale, and after so adjourning, to make such sale at the time and place to which the same may have been adjourned, and upon such sale being made, and upon receiving full payment therefore to make execute and deliver to the purchaser or purchasers at such sale good and sufficient deed or deeds of conveyance for the property and franchise so sold, which sale made, as aforesaid, shall be a perpetual bar, both in law and equity, against the Railway Company, and all other persons lawfully claiming or to claim the above described railway property and premises, rights, interests, and franchises, so sold, or any part thereof, or any lien upon or any interest therein, by, through, or under the Railway Company, and after deducting from the proceeds of such sale a just allowance for all the expenses thereof, including reasonable attorney and counsel fees, and all other expenses, advances, or liabilities which may have been made or incurred by the Trustee in operating said railway, or in maintaining the same, or in managing its business while in possession thereof, and all payments which may have been made by it for taxes or assessments or other proper charges upon the said railway property and premises, rights, interests, and franchises, or any part thereof, including its own reasonable compensation for its services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be at the time outstanding and unpaid, whether the same shall or shall not have previously become due, and of the interest which shall have accrued at that time on the said principal and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principal and such accrued and unpaid interest, and if, after satisfaction thereof as aforesaid, a surplus shall remain, shall pay the same over to the Railway Company, its successors or assigns.

And it is further agreed that no part of the premises hereby mortgaged, or intended so to be shall be sold under proceedings at law by the holder or holders of all or any of the bonds intended to be hereby secured, it being the intention and agreement of the parties for the better securing the largest possible price of the mortgaged premises in the event of a sale thereof that the same shall only be sold in the manner herein provided, or under proper proceedings in a Court of Equity for the foreclosure of this mortgage or deed of trust.

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ARTICLE VI.

In case default shall be made by the Railway Company in the payment of the principal of or of any interest on any of the bonds secured by this indenture, according to the tenor and effect of such bonds on the coupons thereto annexed, and such default shall continue for the period of 6 months after payment of the same shall have been duly demanded, or in case default shall be made by the Railway Company in the payment of any taxes, assessments, or governmental charges lawfully levied and imposed upon the said railway property and premises, or any part thereof, and such default shall continue for the period of 6 months after such taxes, assessments, or governmental charges shall become due and payable, or in case default shall be made by the Railway Company in keeping insured its rolling stock, tools, and machinery, buildings, bridges, and other structures, as aforesaid and such default shall continue for a period of ninety (90) days, or in case the Railway Company shall permit its tunnel to be or become obstructed by water, rock, or earth, in any manner so as to prevent the use thereof for freight or passenger trains, and shall suffer such obstruction to continue for the space of six months, or shall, for any cause or reason, suffer its said tunnel to remain unused by regular trains for said period, or in case default shall be made by the Railway Company in the due observance of any other of its covenants, promises, or agreements, herein required to be done, performed, or kept by it, and such default shall continue for the period

On default continued for certain periods, Trustee may, on request of holders of majority of outstanding bonds, apply for foreclosure and sale or appointment of a receiver.

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of one year after demand of performance by the Trustee herein, then, and in each and every such case of default, continued as aforesaid, the Trustee if it shall elect so to do, may, and if requested in writing by the holders of a majority of the bonds secured hereby, and then outstanding, (and upon being properly indemnified,) shall apply to some Court having proper jurisdiction in the premises for foreclosure and sale of the mortgaged premises, properties, rights, interests, and franchises, and the appointment in the meantime of a Receiver for the same, under this indenture, or (as an alternative of entry in their behalf, hereinbefore given) for the appointment of a Receiver, without applying for a foreclosure or sale of the mortgaged premises, and in either case the Trustee shall have the right to nominate to the Court the person to be appointed Receiver.

ARTICLE VII.

Remedies given
by foregoing
provisions cumulative
and not exclusive.

The Trustee may, in its discretion, resort to any proceedings, legal or equitable, in its judgment necessary or expedient for the enforcement of this indenture, and the foregoing provisions hereof shall be deemed cumulative and not exclusive.

ARTICLE VIII.

Trustee may bid
at foreclosure sale.

At any public sale of the Railway property, premises, rights, interests, and franchises hereby conveyed, made by virtue of the powers herein granted, or by judicial authority, for the purpose of enforcing the lien of this indenture, the Trustee, or the trustees hereunder for the time being, may, and if requested in writing by the holders of a majority of the said bonds hereby secured and then outstanding, shall bid for, and if the same be attainable at the prices hereinafter mentioned, purchase and acquire the property so offered for sale, on behalf of the holders of the bonds secured by this indenture which shall then be outstanding, in proportion to the amount of said bonds and of the overdue coupons thereunto belonging, by them respectively

old. Provided, however, that nothing herein contained shall authorize said Trustee or trustees to bid on behalf of the holders of said bonds and coupons a sum exceeding the whole amount of said bonds then outstanding, with the interest accrued thereon according to the tenor thereof, and the cost and expenses of such sale, for the entire property, then held upon the trusts of this indenture, or an amount reasonably proportioned thereto for any part of the said property. And it is further agreed that the bonds secured hereby, outstanding, and unpaid, and the overdue coupons thereon, shall be received in payment of so much of the purchase price of any property sold by virtue hereof as could be properly distributable to and payable thereon.

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Busk Tunnel Ry. Co.

Terms on which
bonds and coupons
are to be received
in payment.

ARTICLE IX.

In case default shall be made by the Railway Company in the payment of any interest accruing upon any of the said bonds secured hereby, according to the tenor and effect of such bonds, and of the coupons thereto annexed, and such default shall continue for the period [of] six months, then, and in such case of default, continued as aforesaid, the principal of all the bonds secured hereby shall, in case a majority in amount of the holders of said bonds then outstanding in writing so elect, be and become immediately due and payable, anything herein or in said bonds contained to the contrary notwithstanding. A majority in amount of the holders of said bonds outstanding may, in writing, declare, or instruct the Trustee to declare, the said principal to be due as aforesaid, and two thirds in amount of the holders of said bonds outstanding may, in writing waive, or instruct the Trustee to waive, the right so to declare the principal due by reason of such default or defaults upon such terms and conditions as such two thirds in amount of the holders of said bonds outstanding shall deem proper, Provided that no such action of said bondholders, or of the Trustee, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

In case of default
in payment of
interest continued
for six months,
majority in amount
of bondholders may
instruct Trustee
to declare principal
due.

Or two-thirds of
majority in amount
may instruct Trustee
to waive default.

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Busk Tunnel Ry. Co.
Covenant of further
assurance.

ARTICLE X.

The Railway Company hereby covenants and agrees to and with the Trustee, on behalf and for the benefit of the holders of the bonds secured hereby that it will, from time to time, and at all times, upon reasonable request, make, execute, acknowledge, and deliver, at its own expense, all such further acts, deeds, conveyances, and assurances in law, for the better assuring unto the Trustee and its successor or successors in the trust hereby created, upon the trusts and for the purposes therein expressed or intended, all and singular, the property, premises, railway, equipment, and appurtenances, rights, interests, and franchises, hereby mortgaged or conveyed in trust, or intended or purported so to be, whether now owned or possessed by, or vested in the Railway Company, or that may be subsequently acquired or vested in it, as by the Trustee, or its counsel, learned in the law, shall be seasonably [*sic*] devised, advised, or required, and the Railway Company shall furnish to the Trustee, from time to time, and at all times upon its reasonable request in writing, a full and true inventory of all the movable property appertaining to said line of railway hereinbefore described and hereby conveyed, and to the operation thereof, and which is transferred or intended to be transferred by this indenture, but no failure to demand or furnish such inventory shall impair or affect the operation of this indenture upon any property herein agreed or intended to be transferred.

Ry. Co. to furnish
Trustee inventory
of movable property
on written request.

Failure to demand
or furnish inventory
not to affect
operation of this
indenture.

ARTICLE XI.

The Railway Company may, at any time hereafter, before the full payment of said bonds, and whenever it shall deem it expedient for the better security of said bonds, although such default may not have occurred as to entitle the Trustee to enter into possession of the whole or any part of the said railway property, surrender and deliver into the possession of the Trustee the whole or any part of the said railway property and premises, rolling stock, lands, and appurtenances, rights, interests, and franchises hereby conveyed.

Provision for
voluntary surrender
by Ry. Co. to Trustee
without default.

intended so to be, for any term or terms, certain or indefinite. The Trustee, upon such surrender and delivery, may, at its option, enter into and upon the premises so surrendered and delivered, and to take and receive possession thereof for such term or terms, certain or indefinite, as aforesaid, without prejudicing however its right, at any subsequent time, to insist upon and maintain such possession though beyond such terms, whenever it would have been entitled thereto by the terms of this indenture had no surrender been made, and upon the voluntary surrender and delivery of the said railway property and premises, or any part thereof as aforesaid, the Trustee shall and will, during the term or terms for which possession shall be taken, and while said property and premises shall remain in its possession, receive the income and revenue thereof, and work, use, manage, and employ the same in such lawful way as may be most beneficial to the interests of the holders of said bonds, in accordance with the provisions of this indenture.

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ARTICLE XII.

The Trustee shall have full power, in its discretion, upon the written request of the Railway Company, at any time when it shall not be in default in respect to any of the covenants of this indenture, to release from the lien of this mortgage or deed of trust any portion or portions of the premises acquired, held, or used by the Railway Company, for the purpose of stations, shops, or other buildings, or for any use connected with the maintenance or operation of its railway, or any part thereof, or held for any purpose whatsoever, which, in the judgment of the Trustee, shall, at the time of such release, be no longer requisite for the purposes for which the same shall have been acquired or used by the Railway Company, or necessary to be retained for use in connection with its said railway and the operation thereof, and likewise any part of the original line of track or roadway or buildings or other appurtenances which may have been abandoned or thrown out of use, and ceased to form a part of the railway at the time of such

Power of Trustee
to release real estate.

**First Mortgage
Busk Tunnel Ry. Co.**

release, or which cannot be advantageously used or operated as a part thereof, by reason of the changes of alignment, or of the construction of new lines or otherwise. Provided always that any lands or other property, which the Railway Company shall have acquired in exchange therefor shall be conveyed by proper instruments of conveyance to the Trustee, upon the trusts, and for the purposes of this indenture. Before the making of such release, however, the Railway Company shall furnish the Trustee with the affidavit of its President or Vice-President and Chief Engineer, stating that the lands or other property which it is desired to be released are no longer needed for the purposes of the Railway Company, and setting forth the reasons for such statement, which affidavits shall be sufficient evidence to the Trustee of the truth of the statements therein contained.

ARTICLE XIII.

**After five years,
bonds redeemable
at 105 per cent. in
amounts not less
than \$100,000, on any
interest day after 90
days' notice.**

It is further agreed that the Railway Company, its successors and assigns, shall have the right to redeem the entire issue of the bonds secured hereby, or any number of the same, not less than one hundred (100) at one hundred and five (105) per centum of the par value thereof, upon any day occurring five (5) years after the date of said bonds upon which interest thereon is payable, and upon giving notice in writing of its or their election so to do to said Trustee, its successor or successors in trust, at least ninety (90) days prior to the interest day upon which it is proposed to make such purchase or redemption. Such notice shall be addressed to said Trustee, its successor or successors, and shall state the number of said bonds which the Railway Company, its successors or assigns, desire to redeem on the then next interest day, and in case the number of bonds which it is stated in said notice are to be redeemed is less than the entire number of said bonds at that time outstanding, then, in order to determine which of said bonds shall be redeemed on the then next interest day, the Trustee shall draw or cause to be drawn by lot,

**Provision for
drawing bonds
for redemption.**

on some day after receiving such written notice, and at least thirty (30) days prior to the then next interest day, from the whole number of bonds then outstanding, the number so desired to be redeemed. After such drawing, notice of the result thereof, designating the particular bonds that have been so drawn, shall be given by the Trustee, by publication in some newspaper, published in the City of New York, for at least ten (10) consecutive days, not including Sundays, which publication shall be commenced at least twenty (20) days prior to the then next interest day, and by mailing notice to the holder of any registered bond so drawn to his address upon the register at least twenty days before the said then next interest day, and the bonds so drawn shall be redeemed on such interest day. Such redemption shall be made at the office of the Trustee, and if on or before the interest day upon which the Railway Company, its successors or assigns, shall have elected to redeem such bonds, it or they shall deposit with the Trustee, or in such depository as the Trustee may designate, the amount of money necessary to redeem the principal of the number of bonds in said written notice specified, with interest due thereon up to the then next interest day all interest upon said bonds thereafter shall cease, and all subsequent coupons attached thereto be delivered up.

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Busk Tunnel Ry. Co.

ARTICLE XIV.

It is further agreed that, commencing on the first day of July, A.D. 1892, there shall be set aside annually out of the net proceeds derived from the operation of said railway and telegraph, after first deducting the expenses of operating and maintaining the same, making the necessary renewals and improvements thereon, and the payments of interest on the bonds of the Railway Company secured hereby the sum of ten thousand dollars, which shall constitute a sinking fund for the redemption of said bonds, and shall be invested by the Trustee in the purchase of such of said bonds at any time outstanding and secured hereby as can be obtained at their market value, but at a

\$10,000 from net
earnings to be set
aside annually as
sinking fund,
commencing
July 1, 1892.

Application of such
sinking fund.

First Mortgage
Busk Tunnel Ry. Co.
Sinking fund
provisions.

price not in any event exceeding 105 per centum of the par value thereof, and said bonds, when so purchased, shall be held by the Trustee for the purposes of said sinking fund, and the Railway Company shall continue to pay interest on the bonds so purchased and held by the Trustee until the sinking fund shall have reached the amount hereinafter named, and such interest shall be paid by the Trustee into the sinking fund, and invested in the same manner as other moneys belonging to said funds, and in case the bonds of the Railway Company secured hereby cannot be purchased as aforesaid at a rate not to exceed one hundred and five per centum of the par value thereof, the Trustee shall invest said sinking fund in United States Government bonds, the interest obtained thereon to be added to said fund as part of the principal thereof, and to be in turn invested by the Trustee as aforesaid, provided that the said annual payments shall cease when the amount of this sinking fund in the hands of the Trustee shall equal a sum which, invested at the rate of three per centum will, in the period remaining before the maturity of the bonds hereby secured, with interest compounded annually, equal or amount to the total amount of the bonds issued hereunder, or in case said sinking fund shall consist in part of the bonds of the Railway Company, purchased and held by the Trustee as aforesaid, then such annual payments to said sinking fund shall cease when the amount thereof in the hands of the Trustee, not including any of the bonds of the Railway Company, shall equal a sum which, invested at the rate of three per cent. per annum, with interest compounded annually, will, in said period remaining before the maturity of said bonds, when added to the amount of bonds of the Railway Company, purchased and held by the Trustee as aforesaid, equal or amount to the total amount of bonds issued hereunder, and when the sinking fund shall have reached the amount last named, the Trustee shall cancel and return to the Railway Company the bonds of the Railway Company, with the unpaid coupons thereto belonging, which have been purchased and held by the Trustee as aforesaid.

All bonds held by the Trustee for the purposes of the

making fund, under any of the provisions hereof, shall not be deemed to be outstanding for any other purpose than for the collection of interest thereon.

First Mortgage
Buck Tunnel Ry. Co.

ARTICLE XV.

The Trustee shall receive reasonable compensation for the services rendered by it, in the discharge of the duties hereby and hereunder imposed upon the Trustee.

Compensation of
Trustee.

ARTICLE XVI.

The term or words "the Trustee," "said Trustee," and "the said Trustee," as used in this indenture, shall be held and stated to mean the trustee or trustees for the time being, and it is mutually agreed that the said trustee or any trustee or trustees hereafter appointed may, upon not less than ten (10) days previous notice in writing, to be duly served upon said trustee or trustees, be removed by a vote of a majority in interest of the holders of said bonds, cast at any meeting of said bond-holders, duly convened for such purpose, such notice of removal to be attested by the hands and seals of the Chairman and Secretary of such meeting, such meeting to be called by the President or Secretary of the Railway Company, upon the request of the holders of not less than twenty-five (25) per cent. of the amount of the bonds then outstanding, or by such holders, and written notice of the time and place of holding the same to be served upon or mailed to each registered bondholder at his address upon the register, if any, not less than thirty (30) days prior to the time of holding such meeting, and to be given to all the bond-holders by publication thereof, for at least ten consecutive days, excluding Sundays, in a New York City morning newspaper of general circulation, beginning not less than twenty, nor more than thirty days, before the time fixed for such meeting.

Word "Trustee"
to include successors.

Provision for
removal of trustee
by bondholders.

ARTICLE XVII.

And said Trustee, or any trustee or trustees hereafter appointed, may resign and be discharged of the trust

Provision for
resignation of trustee.

**First Mortgage
Busk Tunnel Ry. Co.**

**Provision for
election of new
trustee by
bondholders, in case
of vacancy.**

**Effect of such
election.**

created by this indenture, by giving notice in writing to the Railway Company, and to the bond-holders by publication thereof, at least twice each week for four (4) successive weeks, in a newspaper published in the City of New York, New York, and in a newspaper published in the City of Denver, Colorado, such resignation not to take effect until at least thirty (30) days after the last publication of such notice, and only upon the due execution of the conveyance or conveyances hereinafter required, and in case of the dissolution of the said trustee or of its resignation, incapacity to act, or removal as trustee hereunder, it shall be the duty of the Railway Company, or of its President or Secretary, to call a meeting of the holders of the bonds secured, or intended to be secured hereby, by mailing a notice thereof to each registered bond-holder at his address upon the register, and by publishing a notice, at least twice each week, for four (4) successive weeks, in a newspaper published in the City of New York, New York, and in a newspaper published in the City of Denver, Colorado, such meetings of the holders of said bonds to be held in the City of New York not less than ten (10) and not more than twenty (20) days after the last publication of each or either of said notices, for the purpose of filling the place of said Trustee, and at such meeting, a majority in interest of the holders of said bonds shall be competent to elect a new trustee, and shall at such meeting proceed to elect a suitable person or persons or corporation to act as trustee or trustees to fill such vacancy, and the person or persons or corporation so elected shall, immediately upon such election, and upon his, their, or its filing with the Railway Company an acceptance in writing of such trust, become vested with all the estate, trust, rights, powers, and duties of the said Trustee, party of the second part, as prescribed herein, and thereupon all the powers hereunder, and all the estate, right, title, and interest, in said premises of the Trustee who shall have become incapable or have resigned or have been removed shall wholly cease and determine, but nevertheless the trustee or trustees resigning, or being removed as afore-

said, shall, upon request in writing, of the new trustee or trustees, execute and deliver to it, him, or them, all such conveyances and other instruments as shall be fit and expedient for the purposes of assuring to such new trustee or trustees the legal estate in the premises, provided the expenses of the preparation and execution of such instruments shall be defrayed by the Railway Company, or by the said new trustee or trustees, or other parties in interest, and provided further that nothing herein contained shall be so construed as to deprive any trustee, or his or its representatives, of any right to receive such compensation or reimbursement as such trustee is or may be justly entitled to for any services actually rendered or expenses incurred under this indenture, and in case of such election of a new trustee or trustees as aforesaid, the Railway Company hereby covenants to make, execute, and deliver such other or further instruments, deeds, indentures or assurances as may be necessary to enable the person or persons or corporation so elected to execute and carry out the trusts hereby created and declared as fully and perfectly in all respects as he, they, or it could have executed and carried out the same if originally made the party of the second part to this indenture, and it is hereby declared and agreed that in case the Railway Company shall fail or omit to give notice of a meeting to appoint a new trustee or trustees in the manner aforesaid, within thirty (30) days after the incapacity of any trustee shall occur, or within thirty (30) days after the resignation or removal of any trustee, the holders of ten per cent. of the bonds hereby secured and then outstanding may give such notice, and in case of failure of the bondholders to appoint a new trustee for six months after notice of a vacancy from any cause, the Railway Company may thereupon, by instruments under its corporate seal, appoint any trust company of the City of New York such trustee, which, on accepting said appointment, shall be subject to all the duties and be vested with all the powers herein or hereby created, granted, and conferred upon the said party of the second part, until a majority in interest of the holders of the out-

First Mortgage
Busk Tunnel Ry. Co

If Ry. Co. fails to
give notice of meeting
for election of new
trustee, holders of
10 per cent. of bonds
may give such notice.

In case of failure of
bondholders to
appoint new trustee
for six months after
notice, Ry. Co. may
appoint any trust
company of the city
of New York such
trustee.

First Mortgage
Busk Tunnel Ry. Co.

standing bonds shall elect a trustee or trustees in the manner aforesaid.

ARTICLE XVIII.

Limitation of
liability of Trustee.

The trustee shall not be answerable for the default or misconduct of any attorney, clerk, or agent, appointed by it in pursuance hereof, if such attorney, clerk, or agent, be selected with reasonable care, nor for any error or mistake made by it in good faith, but only for gross negligence or wilful default in the discharge of its duties as such trustee. The trustee shall not be individually liable for any debts contracted or any liabilities incurred by it, nor for any damage to persons or property carried or injured, nor for salaries, or non-fulfilments of contracts during any period in which the trustee shall manage the trust property, upon entry or voluntary surrender as aforesaid, but all such debts and liabilities shall be and constitute a first charge upon the trust funds and property.

ARTICLE XIX.

Whole issue of
bonds to be executed
by Ry. Co. and
delivered to Trustee
for certification from
time to time.

It is further agreed that the whole issue of said bonds to be secured hereby shall, immediately upon the execution of the same by the Railway Company as aforesaid, be delivered to the Trustee for certification from time to time, pursuant to the provisions hereof.

ARTICLE XX.

Proof of ownership
of bonds may be
required where action
by bondholders is
resorted to.

And it is hereby declared and provided that whenever, under any of the provisions of this indenture, effect is to be given to the election act, appointment or assent of a majority, or of any specified amount or proportion of the bond-holders secured hereby, any person whose interests are to be affected by such actions may require that the ownership of such bonds by the persons claiming to be the owners thereof shall be vouched for by the affidavit of such owner or of his duly authorized agent or attorney having possession of the bonds, stating such ownership of the bonds, and giving the numbers thereof, which affidavit shall be received as *prima facie* evidence of the fact.

ARTICLE XXI.

First Mortgage
Busk Tunnel Ry. Co.
Defeasance clause.

If the Railway Company shall well and truly pay or cause to be paid all the bonds to be issued hereunder, or entitled to the protection of this indenture, and the coupons thereto attached, at the times and in the manner therein specified, and shall well and truly keep and perform the covenants and undertakings herein and hereby required to be kept, and performed by it, according to the true intent and meaning of this indenture, then and in that case, all property, rights, and interests hereby conveyed shall revert to the Railway Company, and the estate, right, title, and interest of the Trustee aforesaid, its successor or successors, shall thereupon cease, determine, and become void, otherwise the same shall be, continue, and remain in full force and virtue. It is further expressly agreed that all covenants, stipulations, promises, and undertakings herein contained, by or on behalf of the Railway Company shall bind and be binding upon its successors or assigns, whether so expressed or not.

IN WITNESS WHEREOF the said The Busk Tunnel Railway Company, the party of the first part, has caused these presents to be executed on its behalf by its President, and its Corporate Seal attested by its Secretary, to be hereunto affixed, and the said Continental Trust Company, of the City of New York, the party of the second part, in evidence of its acceptance of the trust hereby created, has likewise caused these presents to be executed on its behalf by its President, and its Corporate Seal, attested by its Secretary, to be hereunto affixed.

THE BUSK TUNNEL RAILWAY COMPANY.

A. W. SHERMAN,

[CORPORATE SEAL
B. T. R. Co.]

President.

Attest:

G. W. BASHFORD,

Secretary.

First Mortgage
Busk Tunnel Ry. Co.

CONTINENTAL TRUST COMPANY OF THE CITY OF NEW
YORK.

HENRY S. OAKLEY,
President.

[CORPORATE SEAL
C. T. Co. N.Y.]

Attest:

WILLIAM HENRY REESE,
Secretary.

Acknowledgment
by Ry. Co.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.

On this eighteenth day of June, in the year eighteen hundred and ninety, before me, George S. Bixby, a Notary Public, in and for the said City, County, and State, duly commissioned and sworn, personally appeared Arthur W. Sherman and George W. Bashford, to me personally known, and known to me to be the same persons described in and who executed the foregoing instrument, and to be the President and Secretary respectively of the Busk Tunnel Railway Company, one of the parties described in and which executed the foregoing instrument, and severally acknowledged to me that they executed the said instrument by order of the Board of Directors of said Company, as its free and voluntary act and deed, and as their own free and voluntary act and deed, for the uses and purposes therein set forth.

Affidavit as to
corporate seal
and signatures.

And the said George W. Bashford, being by me duly sworn, doth depose and say that he resides in the City of Yonkers, in the State of New York, and is the Secretary of the said the Busk Tunnel Railway Company, that he knows the Corporate Seal of said Company, that the seal affixed to the foregoing instrument is such Corporate Seal, and was so affixed by authority of the Board of Directors of said Company, and that he signed his name thereto by the like order as Secretary, and the said George W. Bashford further says that he knows the said Arthur W. Sherman, and knows him to be the President of said Company, that the signature of said Arthur W. Sherman is in the genuine handwriting of said Arthur W. Sherman, and was sub-

scribed to said instrument by the like order of the Board of Directors, and in the presence of him, the said George W. Bashford.

First Mortgage
Busk Tunnel Ry. Co

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

GEORGE S. BIXBY,

[NOTARY SEAL]

Notary Public,
New York County.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

I, Edward F. Reilly, Clerk of the City and County of New York, and also Clerk of the Supreme Court for the said City and County, the same being a Court of Record, do hereby certify that George S. Bixby, whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a Notary Public in and for the City and County of New York, dwelling in the said City, commissioned and sworn, and duly authorized to take the same, and further that I am well acquainted with the handwriting of such Notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

Certificate of
qualification of
Notary Public.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of the said Court and County the 21st day of June, 1890.

EDWARD F. REILLY,

[CITY AND COUNTY
SEAL OF NEW YORK]

Clerk.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

Acknowledgment
by Trust Co.

On this eighteenth day of June in the year eighteen hundred and ninety, before me, George S. Bixby, a Notary Public, in and for the said City, County, and State, duly commissioned and sworn, personally appeared Henry A. Oakley and William Henry Reese, to me personally known, and known to me to be the same persons described in and who executed the foregoing instrument, and to be the Pres-

First Mortgage
Busk Tunnel Ry. Co.

Affidavit as to
corporate seal
and signatures.

ident and Secretary respectively of the Continental Trust Company of the State of New York, one of the parties described in and which executed the foregoing instrument, and severally acknowledged to me that they executed said instrument by order of the Board of Directors of said Company as its free and voluntary act and deed, and as their own free act and deed for the uses and purposes therein set forth, and the said William Henry Reese, being by me duly sworn, doth depose and say that he resides in the town of Wappinger, in the State of New York, and is the Secretary of the said Continental Trust Company of the City of New York, that he knows the Corporate Seal of said Company, that the seal affixed to the foregoing instrument is such Corporate Seal, and was affixed by authority of the Board of Directors of said Company, and that he signed his name thereto by the like order as Secretary. And the said William Henry Reese further says that he knows the said Henry A. Oakley, and knows him to be President of said Company, that the signature of the said Henry A. Oakley is in the genuine handwriting of said Henry A. Oakley, and was thereto subscribed by the like order of the Board of Directors, and in the presence of him, the said William Henry Reese.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

GEORGE S. BIXBY,
Notary Public,
New York County.

[NOTARY SEAL]

Certificate as to
qualification of
Notary Public.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

I, Edward F. Reilly, Clerk of the City and County of New York, and also Clerk of the Superior Court for the said City and County, the same being a Court of Record, do hereby certify that George S. Bixby, whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument and thereon written, was, at the time of taking such proof or acknowledgment a Notary Public in and for the City and County of New York, dwell-

ing in the said City, commissioned and sworn, and duly authorized to take the same, and further that I am well acquainted with the handwriting of such Notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of the said Court and County the 21st day of June, 1890.

EDWARD F. REILLY,

[CITY AND COUNTY
SEAL OF NEW YORK]

Clerk.

STATE OF COLORADO, }
COUNTY OF LAKE, } ss.

Certificate of
recording of foregoing
mortgage in Lake
County.

I, C. H. S. Whipple, Clerk and Recorder in and for said County, in the State aforesaid, do hereby certify that the within and foregoing is a true and correct copy of Deed of Trust No. 80,117, as appears of record in my office, in Book 137, Page 240 and that the same was filed for record Aug. 25, 1890 at 12.05 P.M.

WITNESS my hand and official seal this 19th day of July, 1892.

C. H. S. WHIPPLE,

Clerk and Recorder.

By MARK E. CARR,

Deputy.

STATE OF COLORADO, }
COUNTY OF PITKIN, } ss.

Certificate of
recording of
foregoing mortgage
in Pitkin Co.

I, J. J. Warnock, County Clerk and Recorder in and for said county, in the State aforesaid, do hereby certify that the foregoing is a full, true and correct copy of Document No. 37,654, as the same appears upon the records of my office in Book 80, Page 290.

GIVEN under my hand and official seal this 18 day of July A.D. 1892, at 7.10 o'clock P.M.

JAS. J. WARNOCK,

County Clerk and Recorder.

By FRANK M. YATES,

Deputy.

AGREEMENT

BETWEEN

THE BUSK TUNNEL RAILWAY COMPANY,
THE COLORADO MIDLAND RAILWAY
COMPANY, AND THE
CONTINENTAL TRUST COMPANY OF
NEW YORK.

WHEREBY SAID TUNNEL COMPANY GRANTS TO THE SAID
RAILWAY COMPANY THE RIGHT TO USE ITS ROAD
AND TUNNEL ON COMPLETION. CERTAIN
PAYMENTS TO BE MADE TO THE
SAID TRUST COMPANY FOR
CERTAIN PURPOSES.

June 17, 1890.
Parties.

THIS AGREEMENT, made this seventeenth day of June, 1890, by and between THE BUSK TUNNEL RAILWAY COMPANY, hereinafter called the Tunnel Company, a corporation duly organized under the laws of the State of Colorado, party of the first part, THE COLORADO MIDLAND RAILWAY COMPANY, hereinafter called the Railway Company, a corporation duly organized under the laws of said State of Colorado, party of the second part, and THE CONTINENTAL TRUST COMPANY OF THE CITY OF NEW YORK, hereinafter called the Trustee, a corporation duly organized under the laws of the State of New York, party of the third part.

Description of line of
C. M. from Colorado
Springs across the
Rocky Mountains.

WHEREAS, the Railway Company is the owner and is engaged in the operation of a railway line extending from the City of Colorado Springs, El Paso County, Colorado, to the town of New Castle, Garfield County, Colorado, crossing the main range of the Rocky Mountains, commonly known as the Saguache Range, between the two railway stations called Busk and Ivanhoe; and

WHEREAS, the Tunnel Company is about to enter upon the construction of a line of railway, extending in part by means of a tunnel, from a point on the railway of the Railway Company at or near said station called Busk, in Lake County, to a point on said railway at or near said station called Ivanhoe in Pitkin County, said railway being about three and one-fourth miles in length, more or less; and

Grant by B. T. Co. to C. M. of its road and tunnel on completion.

WHEREAS, by indenture of mortgage or deed of trust bearing date the seventeenth day of June, 1890, made between the Tunnel Company, of the first part, and the Trustee of the second part, the Tunnel Company mortgaged to the Trustee its said line of railway and all other property then owned or thereafter to be acquired by it and its franchise to secure an issue by the Tunnel Company of its fifteen hundred bonds for one thousand dollars each, to bear date the seventeenth day of June, 1890, and to mature on the first day of July, 1935, with interest at rate of seven per cent. per annum, payable semi-annually on the first days of January and July in each year; and

Mortgage of B. T. Co.

WHEREAS, the Railway Company, by connecting its road with the said road of the Tunnel Company, at or near said stations called Busk and Ivanhoe, and operating its trains between said points over said road of the Tunnel Company, will avoid the heavy grades and severe curvature which exist on that portion of its own road now operated by it between said stations, and will escape the deep snows incident to that portion of its own line, and will in other ways greatly reduce its expenses of operating between said stations, and will in other ways be greatly benefited; and

Reasons of Ry. Co. for desiring to acquire use of tunnel and road of B. T. Co.

WHEREAS, to the ends aforesaid, the Railway Company is desirous of obtaining from the Tunnel Company the right to use the tracks of the Tunnel Company between said points of connection at or near Busk and Ivanhoe respectively for the passage of all its engines, cars and freight as well as all passengers on its trains.

Desire of Ry. Co. to do so.

NOW THEREFORE, THIS AGREEMENT WITNESSETH as follows:—

Agreement.

First. For and in consideration of the covenants and agreements hereinafter contained on the part of the Rail-

**Grant by B. T. Co.
to C. M. of its road
and tunnel on
completion.**

**B. T. Co. agrees to
construct its road
and tunnel, beginning
on or before
Aug. 1, 1890.**

**Work to be
completed on or
before July 1, 1892.**

**B. T. Co. grants
to Ry. Co. right to use
its road and tunnel
when completed for
45 years from
July 1, 1890.**

Covenants of Ry. Co.

**To furnish monthly
statements of
passengers and
freight transported
over leased road.**

way Company to be paid, observed, kept and performed, the Tunnel Company agrees to and with the Railway Company as follows:—

The Tunnel Company will, on or before the first day of August, 1890, enter upon the work of constructing its said proposed railway and tunnel and shall prosecute said work of construction with all reasonable dispatch and in substantial compliance with the plans and specifications for said road heretofore prepared and submitted by B. H. Bryant, Esq., Civil Engineer of Colorado Springs, Colorado, and will construct such road in all respects as a first-class Western road and lay the tracks thereon of standard gauge and with steel rails weighing not less than sixty-five pounds to the yard, and will build the necessary side tracks turn-outs and all other appurtenances required for the proper maintenance and operation of said road, not including, however, water tanks, station houses, section houses or other buildings, and will complete said work of construction and have said road ready for operation on or before the first day of July, 1892, or as soon after as may be practicable.

The Tunnel Company hereby grants to the Railway Company the right on the completion of the said line of railway of the Tunnel Company to use said line of railway and said tunnel for the passage and repassage of all its engines, cars and freight and passengers on its trains for the term of forty-five (45) years from the first day of July, 1890, but expressly subject in all respects to the said mortgage or deed of trust made by the Tunnel Company to the Trustee to secure its said issue of bonds herein above recited.

Second. In consideration of the premises the Railway accepts, under the provisions hereof, the said grant of the right to use for the purposes aforesaid the line of railway and tunnel of the Tunnel Company, and covenants to and with the Tunnel Company and to and with the Trustee severally to pay by way of compensation therefor as follows:—

The Railway Company will, on or before the twentieth day of each calendar month during the continuance of this

agreement render to the Tunnel Company and to the Trustee a statement in duplicate of the number of passengers transported by or in trains of the Railway Company over any part of the said railway of the Tunnel Company in either direction, and of each ton of freight transported by or in trains or cars of the Railway Company over any part of the said railway of the Tunnel Company in either direction during the preceding calendar month.

Grant by B. T. Co. to C. M. of its road and tunnel on completion.

The Railway Company will monthly and on or before said twentieth day of each calendar month during the term hereof and at the time of rendering such statement, pay to the Trustee for each passenger so transported the sum of twenty-five cents and for each ton of freight so transported the sum of twenty-five cents.

To pay to Trustee 25 cents for each passenger and for each ton of freight so transported.

The amounts so received by the Trustee shall be applied by it:

Amounts so received by Trustee to be applied to:

1. To the payment of all taxes which may be levied or assessed upon any part of the line of railway of the Tunnel Company.

Taxes,

2. To the payment of interest on the said issue of bonds of the Tunnel Company, as the same shall become due and payable, in accordance with the terms thereof.

Interest,

3. To the payment of all such sums as may be necessary to enable the Tunnel Company to comply with the covenants, provisions and agreements of its said mortgage or deed of trust to the Trustee.

Carrying out of provisions of mortgage,

4. To the payment to the Tunnel Company of such amount, not exceeding, however, the sum of Five Thousand dollars (\$5,000) in any one year, as the Board of Directors of the Tunnel Company shall by resolution certify to the Trustee, is necessary for the expenses of the administration of the Tunnel Company.

Payment of sum not exceeding \$5,000 a year for expenses of administration of B. T. Co.,

5. To the payment of all such sums as may be necessary in order to enable the Tunnel Company to maintain in good order and repair and in good condition suitable for the passage of trains, the said line of railway of the Tunnel Company.

Repairs on road of B. T. Co.,

6. To the creation, in the manner and to the extent provided in said mortgage or deed of trust to the Trustee, of

Sinking fund under mortgage.

Grant by B. T. Co.
to C. M. of its road
and tunnel on
completion.
Further covenants
of Ry. Co.

All traffic of Ry. Co.
between Busk and
Ivanhoe to be
transported over
road of B. T. Co.
during term of
agreement.

Tolls for each six
months to be
sufficient for
payments
hereinbefore named.

If not, Ry. Co. shall
pay deficit to Trustee.

If tolls insufficient
any 6 months, they
shall be increased.

If parties cannot
agree, Trustee to
determine amount
of increase.

If tolls in any
6 months exceed
required payments,
Trustee to repay
excess to Ry. Co.

the sinking fund for the redemption of said issue of bonds of the Tunnel Company.

Third. The Railway Company covenants to and with the Tunnel Company and to and with the Trustee severally as follows:—

During the term of this agreement all traffic of the Railway Company whether freight or passenger originating at Busk or points east of Busk for Ivanhoe or points west of Ivanhoe and originating at Ivanhoe or points west of Ivanhoe for Busk or points east of Busk shall be transported over the said line of railway of the Tunnel Company and said line of railway shall during said term be the exclusive route for all such traffic.

The tolls to be derived from such transportation by the Railway Company of passengers and freight over the said railroad of the Tunnel Company and to be payable as aforesaid by the Railway Company, shall be sufficient in each period of six months during the term of this agreement to meet all the payments required to be made for each and all of the purposes aforesaid, during such period of six months; and if during any period of six months such tolls shall not be sufficient for each and all of the purposes aforesaid, then and in any such event, the Railway Company shall at the expiration of each such period of six months, pay to the Trustee the amount of such deficit. In the event that the amount realized from the transportation and carriage of freight and passengers shall be insufficient, during any period of six months, for all the purposes aforesaid, such tolls shall be increased to such amount as will be sufficient therefor; and if the parties hereto shall be unable to agree as to the necessity for an increase of tolls or as to the proper amount of such increase, the same shall be determined by the Trustee. In the event that the tolls to be paid during any period of six months shall exceed the amount required for the purposes above specified, the Trustee shall repay and return such excess to the Railway Company, unless otherwise ordered by resolutions of the Board of Directors of both the Tunnel Company and the Railway Company.

Fourth. The Tunnel Company covenants to and with the Railway Company and to and with the Trustee severally as follows:

The Tunnel Company will during the term of this agreement, keep and maintain its said line of railway in good condition and repair and will make all such repairs and renewals as shall be required to keep the same in good and safe condition.

The Tunnel Company will maintain its corporate existence and organization and at all times and from time to time during the term hereof when requested by the Railway Company or by the Trustee, will put forth and exercise each and every corporate power and do each and every corporate act which it might now or may hereafter at any time lawfully put in force and exercise to enable the Railway Company to enjoy and avail itself of and exercise every right and privilege hereby granted and shall not and will not commit or suffer or allow to be committed or suffered any act whereby its corporate existence and powers may be annulled, abridged or affected.

The Tunnel Company will faithfully apply all sums received by it from the Trustee and paid to it under any of the foregoing provisions hereof to the purposes for which the same shall be so paid.

Fifth. It is mutually covenanted as follows:—

The right and privilege of using the said line of railway of the Tunnel Company, shall be exercised in common with the Tunnel Company and any other Company or Companies as may from time to time obtain from the Tunnel Company the grant of similar or other rights, privileges and use of the same.

Nothing herein contained shall be deemed or taken in any manner to affect or abridge any of the corporate franchises or powers of the Tunnel Company to use and operate its said line of railway in its own behalf, to lease the same or make contracts for its use with other companies and furnish facilities similar to those hereby granted to the Railway Company to one or more Companies, and from time to time and generally to perform and exercise all the corpo-

Grant by B. T. Co. to C. M. of its road and tunnel on completion.

Covenants of B. T. Co.

To keep road in repair.

To maintain its corporate existence and do all necessary corporate acts.

To apply all sums received from Trustee to the purposes named.

Mutual covenants.

Right to use road and tunnel to be in common with B. T. Co. and its grantees.

Corporate franchises of B. T. Co. not abridged, and rights granted not exclusive.

Grant by B. T. Co.
to C. M. of its road
and tunnel on
completion.

Arrangement of
time tables.

Each company
liable for damage
from negligence of
its employees.

If neither or both
at fault, damages
to be borne equally.

Ry. Co. not to use
road of B. T. Co.
for switching,
storing cars or
making up trains.

Ry. Co. not to allow
nor to authorize
any company to use
its tracks between
Busk and Ivanhoe
except on payment
to Trustee of tolls
at rates above
provided.

Provisions in case
Ry. Co. fails to make
required payments.

rate franchises and privileges which it may now or hereafter shall have power to perform and exercise.

The schedule of time for running the trains of the Railway Company shall be fixed from time to time by the Superintendent of the Railway Company who shall give reasonable notice of any change thereof to the Tunnel Company and in the arrangement of time-tables the passenger trains of the Railway Company shall have preference as to right of the railway over trains of a lower class belonging to the Tunnel Company or any other party using said railway and the employees of the Railway Company while running over said railway of the Tunnel Company shall be subject to and be governed by the rules and regulations of the Tunnel Company and shall be subject to be dismissed by the Tunnel Company for just cause; and all trains of the Railway Company while running over said line of railway of the Tunnel Company shall be treated by the Tunnel Company in all respects as similar trains of its own are treated.

The Railway Company and the Tunnel Company shall be liable as well to the other as to all third parties for all injuries and damages done by the running of its own trains or by the misconduct, carelessness or neglect of its own employees, and in case of collision between the trains of said parties, the one in fault shall pay all damages, or if both or neither is at fault, all damages shall be borne equally by them.

The Railway Company shall not use the said line of railway of the Tunnel Company for switching, standing cars upon it or making up trains, the sole purpose hereof being to secure to the Railway Company the right to run its trains, in compliance with the conditions hereof, over said line of railroad.

The Railway Company shall not authorize any Company to run over its track between Ivanhoe and Busk in either direction except upon the payment to the Trustee as hereinabove provided for the purposes above set forth of tolls at the rates hereinabove specified.

If the Railway Company shall at any time or times here-

after during the continuance of this agreement, omit or fail to make the payments hereinabove agreed to be made, or any of them, or shall fail punctually and faithfully to pay, observe, keep and perform any other of the covenants and agreements hereof, then, and in either of such cases, the Tunnel Company may at any time, either —

Grant by B. T. Co. to C. M. of its road and tunnel on completion.

1. Proceed by proper action or actions in the proper courts either at law or in equity, to enforce performance of such covenants by the Railway Company, or to recover damages for the breach thereof.

B. T. Co. may enforce performance in equity or recover damages at law.

2. By notice in writing determine this agreement, and thereupon close its said line of railway to the Railway Company and thenceforth hold, possess and enjoy the same free from any right of the Railway Company, or its assigns, to use the said railway for any purpose whatsoever, and thereupon any right, title and interest of the Railroad Company to the use of said Railway shall absolutely cease and determine as though these presents had never been made; but the Tunnel Company shall nevertheless have the right to recover from the Railroad Company any and all amounts which under the terms hereof may be then due and unpaid for the use of the said line of railway.

May terminate this agreement by notice in writing.

And may also recover all amounts then due and unpaid.

The Trustee shall have the right, in its discretion, to enforce and require the enforcement of the covenants herein contained on the part of the Railway Company and the Tunnel Company, or either of them, and shall have the right independently, by proper action in equity or at law or by entry upon the said line of railway, to enforce the performance thereof, or of any of them severally, and to do or perform or require the performance of such act or acts as shall be proper to protect the said Trustee and the holders of the said bonds of the Tunnel Company without defence or set-off on account of acts, omissions or liabilities of either the Tunnel Company or the Railway Company to each other while the said bonds of the Tunnel Company shall be outstanding and unpaid, and it shall have the right and power in its own name or in the name of the Tunnel Company to proceed upon this agreement for any default by the Railway Company, in the same manner

Trustee may enforce covenants of Ry. Co. and B. T. Co. or either for protection of bondholders.

Grant by B. T. Co.
to C. M. of its road
and tunnel on
completion.

and to the same extent as is herein provided as to the Tunnel Company and to use and put in force all the remedies provided hereby on behalf of the Tunnel Company but without defence or set-off on account of acts, omissions or liability of the Tunnel Company towards the Railway Company, or of any breach by the Tunnel Company of any covenant of this agreement, made by it with the Railway Company including said covenant to maintain its said line of railway in repair, it being the intention of this agreement that the obligation of the Railway Company to pay tolls at the rates and times and to the aggregate amounts as hereinabove provided for all the purposes above specified shall as regards the Trustee be absolute.

Covenants to
extend to successors
and assigns of both
parties.

Sixth. All the covenants, stipulations and agreements of this indenture, shall extend to the successors, heirs and assigns of the parties respectively, by and to whom the same have been made.

Agreement to
take effect on
ratification by
stockholders of
both companies.

Seventh. This agreement shall take effect only on the approval or ratification hereof by the stockholders of the Tunnel and Railway Companies, parties hereto, respectively, at meetings duly called or held for that purpose.

Attesting clause

IN WITNESS WHEREOF, each of the parties has hereunto caused its corporate seal to be affixed and this agreement to be executed by its President and Secretary.

THE BUSK TUNNEL RAILWAY COMPANY.

A. W. SHERMAN,

[SEAL]

President.

Attest:

G. W. BASHFORD,

Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

THEO. M. DAVIS,

[SEAL]

President.

Attest:

OSCAR BUNKE,

Ass't Sec'y.

THE CONTINENTAL TRUST CO. OF CITY OF NEW YORK.

HENRY A. OAKLEY,

*President.*Grant by B. T. Co.
to C. M. of its road
and tunnel on
completion.

Attest:

WM. HENRY REESE,

*Sec'y.*STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.Acknowledgment
by B. T. Co.

On this eighteenth day of June, in the year eighteen hundred and ninety, before me, George S. Bixby, a Notary Public in and for the said City, County and State, duly commissioned and sworn, personally appeared ARTHUR W. SHERMAN and GEORGE W. BASHFORD, to me personally known and known to me to be the same persons described in and who executed the foregoing instrument, and to be the President and Secretary respectively of The Busk Tunnel Railway Company, one of the parties described in and which executed the foregoing instrument, and severally acknowledged to me that they executed said instrument by order of the Board of Directors of said Company, as its free and voluntary act and deed, and as their own free and voluntary act and deed, for the uses and purposes therein set forth.

And the said George W. Bashford, being by me duly sworn, doth depose and say: that he resides in the City of Yonkers in the State of New York and is the Secretary of the said The Busk Tunnel Railway Company; that he knows the corporate seal of said Company; that the seal affixed to the foregoing instrument is such corporate seal, and was so affixed by authority of the Board of Directors of said Company, and that he signed his name thereto by the like order as Secretary; and the said George W. Bashford further says that he knows the said Arthur W. Sherman and knows him to be the President of said Company; that the signature of said Arthur W. Sherman is the genuine handwriting of said Arthur W. Sherman, and was subscribed to said instrument by the like order of the Board of

Affidavit as to
corporate seal.

Grant by B. T. Co.
to C. M. of use of
its road and tunnel
on completion.

Directors and in the presence of him, the said George W. Bashford.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

GEORGE S. BIXBY,

[SEAL]

Notary Public

New York County.

Certificate as to
qualification of
Notary Public.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

I, Edward F. Reilly, Clerk of the City and County of New York, and also Clerk of the Supreme Court for the said City and County, the same being a Court of Record, DO HEREBY CERTIFY, That George S. Bixby, whose name is subscribed to the Certificate of the proof or acknowledgment of the annexed instrument and thereon written, was, at the time of taking such proof or acknowledgment, a Notary Public in and for the City and County of New York, dwelling in the said City, commissioned and sworn, and duly authorized to take the same. And further, that I am well acquainted with the handwriting of such Notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County, the 21st day of June, 1890.

EDWARD F. REILLY,

[SEAL]

Clerk.

Acknowledgment
by C. M.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

On this eighteenth day of June, in the year eighteen hundred and ninety, before me, George S. Bixby, a Notary Public in and for the said City, County and State, duly commissioned and sworn, personally appeared THEODORE M. DAVIS, and OSCAR BUNKE, to me personally known and known to me to be the same persons described in and who executed the foregoing instrument, and to be the President

FURTHER INDENTURE

BETWEEN

**THE BUSK TUNNEL RAILWAY COMPANY,
THE COLORADO MIDLAND RAILWAY
COMPANY,**

AND THE

**CONTINENTAL TRUST COMPANY OF
NEW YORK.**

WHEREBY THE SAID TUNNEL COMPANY LEASES ALL ITS
RAILROAD AND PROPERTY TO THE SAID
RAILWAY COMPANY.

THIS INDENTURE made this nineteenth day of June, June 19, 1890.
1890, by and between THE BUSK TUNNEL RAILWAY COM- Parties.
ANY, hereinafter called the lessor, a corporation duly
organized under the laws of the State of Colorado, party of
the first part, THE COLORADO MIDLAND RAILWAY COMPANY
hereinafter called the lessee, a corporation duly organized
under the laws of said State of Colorado, party of the
second part, and the CONTINENTAL TRUST COMPANY OF THE
CITY OF NEW YORK, hereinafter called the Trustee, a cor-
poration duly organized under the laws of the State of New
York, party of the third part.

WHEREAS the lessee is the owner and engaged in the Line of C. M.
operation of a railway line, extending from the City of
Colorado Springs, El Paso County, Colorado, to the town
of New Castle, Garfield County, Colorado, crossing the
main range of the Rocky Mountains commonly known as
the Saguache Range, between the two railway stations
called Busk and Ivanhoe; and

WHEREAS the lessor is about to enter upon the construc- Proposed tunnel
tion of a line of railway, extending, in part by means of a and railway of
tunnel, from a point at or near the said station called Busk, B. T. Co.

Grant by B. T. Co.
to C. M. of use of
its road and tunnel
on completion.

known and known to me to be the same persons described in and who executed the foregoing instrument, and to be the President and Secretary respectively of the Continental Trust Company of the City of New York, one of the parties described in and which executed the foregoing instrument, and severally acknowledged to me that they executed said instrument by order of the Board of Directors of said Company, as its free and voluntary act and deed and as their own free and voluntary act and deed, for the uses and purposes therein set forth.

Affidavit as to
corporate seal.

And the said William Henry Reese, being by me duly sworn doth depose and say: that he resides in the town of Wappinger in the State of New York, and is the Secretary of the said The Continental Trust Company of the City of New York; that he knows the corporate seal of said Company; that the seal affixed to the foregoing instrument is such corporate seal and was so affixed by authority of the Board of Directors of said Company, and that he signed his name thereto by the like order as Secretary; and the said William Henry Reese further says that he knows the said Henry A. Oakley and knows him to be the President of said Company; that the signature of said Henry A. Oakley is in the genuine handwriting of said Henry A. Oakley, and was thereto subscribed by the like order of the Board of Directors and in the presence of him, the said William Henry Reese.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

GEORGE S. BIXBY,
Notary Public.
New York County.

Certificate of Clerk same as above.

FURTHER INDENTURE

BETWEEN

THE BUSK TUNNEL RAILWAY COMPANY,
THE COLORADO MIDLAND RAILWAY
COMPANY,

AND THE

CONTINENTAL TRUST COMPANY OF
NEW YORK.

WHEREBY THE SAID TUNNEL COMPANY LEASES ALL ITS
RAILROAD AND PROPERTY TO THE SAID
RAILWAY COMPANY.

THIS INDENTURE made this nineteenth day of June, June 19, 1890.
1890, by and between THE BUSK TUNNEL RAILWAY COM- Parties.
PANY, hereinafter called the lessor, a corporation duly
organized under the laws of the State of Colorado, party of
the first part, THE COLORADO MIDLAND RAILWAY COMPANY
hereinafter called the lessee, a corporation duly organized
under the laws of said State of Colorado, party of the
second part, and the CONTINENTAL TRUST COMPANY OF THE
CITY OF NEW YORK, hereinafter called the Trustee, a cor-
poration duly organized under the laws of the State of New
York, party of the third part.

WHEREAS the lessee is the owner and engaged in the Line of C. M.
operation of a railway line, extending from the City of
Colorado Springs, El Paso County, Colorado, to the town
of New Castle, Garfield County, Colorado, crossing the
main range of the Rocky Mountains commonly known as
the Saguache Range, between the two railway stations
called Busk and Ivanhoe; and

WHEREAS the lessor is about to enter upon the construc- Proposed tunnel
and railway of
B. T. Co.
tion of a line of railway, extending, in part by means of a
tunnel, from a point at or near the said station called Busk,

Lease of B. T. Co.
to C. M.

in Lake County, Colorado, to a point at or near said station called Ivanhoe, in Pitkin County, Colorado; and

Mortgage of B. T. Co.

WHEREAS, by indenture of mortgage or deed of trust bearing date the seventeenth day of June, 1890, made between the lessor, of the first part, and the trustee, of the second part, the lessor mortgaged to the trustee its line of railway hereinafter particularly described, to secure an issue by the lessor of its fifteen hundred bonds for one thousand dollars each, to bear date the seventeenth day of June, 1890, and to mature on the first day of July, 1935, with interest thereon at the rate of seven per cent. per annum, payable semi-annually on the first days of January and July in each year; and

Agreement of
June 17, 1890,
between same
parties.

WHEREAS by agreement bearing date the seventeenth day of June, 1890, made between the lessor of the first part, the lessee of the second part and the trustee of the third part, the lessor granted to the lessee upon the terms and conditions therein set forth, the right to use, for the term of forty-five years from the first day of July, 1890, for the transportation of freight and passengers, the said line of railway of the lessor; and

C. M. now desirous
of obtaining exclusive
use of line.

WHEREAS the lessee now desired to obtain the exclusive use of the said line of railway of the lessor and it is deemed by the lessor and the lessee mutually desirable that the lessee should control and operate said line of railway when completed as lessee thereof;

NOW THEREFORE, THIS INDENTURE WITNESSETH, AS FOLLOWS:—

B. T. Co. agrees
to construct its
road in a specified
manner, and complete
same by July 1, 1892.

First. The lessor shall on or before the first day of August, 1890, enter upon the work of constructing its said proposed line of railway and shall prosecute such work of construction with all reasonable despatch and in substantial compliance with the plans and specifications for said road heretofore prepared and submitted by B. H. BRYANT, Esq., Civil Engineer of Colorado Springs, Colorado, and shall construct such road in all respects as a first-class Western railroad and lay the tracks thereon of standard gauge and with steel rails weighing not less than sixty-five pounds to the yard and shall build the necessary side tracks, turnouts

and all other appurtenances required for the proper maintenance and operation of said road not including however, water tanks, station houses, section houses or other buildings and shall complete said work of construction and have such road ready for operation on or before the first day of July, 1892, or as soon thereafter as may be practicable.

Lease of B. T. Co.
to C. M.

Second. The lessor, for and in consideration of the covenants and agreements hereinafter contained on the part of the lessee to be observed, kept and performed, hath let, leased and demised, and by these presents doth let, lease and demise unto the lessee, its successors and assigns:

Granting clause.

ALL its line of railway, constructed or to be constructed beginning at a point on the Colorado Midland Railway in Township nine (9) South, Range eighty-one (81) West of the Sixth Principal Meridian, County of Lake, State of Colorado, near the railway station known as Busk, running thence in a general Westerly direction by the most feasible route to a point on said Colorado Midland Railway in Township nine (9) South, Range eighty-two (82) West of the Sixth Principal Meridian, County of Pitkin, State of Colorado, at or near the railway station known as Ivanhoe, including the necessary side tracks.

Description of
property leased.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the lessor of, in and to the same, and every part and parcel thereof, with the appurtenances.

TO HAVE AND TO HOLD the same unto the lessee, its successors and assigns from the said first day of July, 1892, or such other day as the said railroad shall be completely constructed, until the first day of July, 1935, at noon; subject, however in all respects to the said indenture of mortgage or deed of trust hereinabove recited, made by the lessor to the trustee and subject also to the said trackage agreement between the lessor of the first part, the lessee of the second part and the trustee of the third part,

Habendum clause.

Term from
completion of road
to July 1, 1935.

Subject to mortgage.

Subject also to
agreement of
June 17, 1890.

Lease of B. T. Co.
to C. M.

bearing date the seventeenth day of June, 1890, and hereinabove recited.

The lessee, its successors and assigns yielding and paying therefor the sums hereinafter specified, and keeping and performing all and singular the covenants and agreements hereinafter set forth to be by the lessee observed, kept and performed.

C. M. accepts
lease and agrees
to pay as rental:

Third. The lessee, in consideration of the premises, accepts under the provisions hereof, the premises and property hereby demised for said term hereby granted and covenants to and with the lessor and to and with the trustee, severally, to pay by way of rental therefor as follows:

The lessee will yearly and every year during the term hereby granted pay to the trustee:

All taxes,

1. All taxes that may be imposed, assessed or levied upon the lessor or upon the said demised premises and property or any part thereof, as the same shall become due and payable.

Insurance premiums,

2. The premiums of insurance upon the buildings demised when and as such insurance shall be effected under the provisions of said first mortgage of the lessor to the trustee.

Coupons of first
mortgage bonds,

3. The coupons maturing upon all the said first mortgage bonds of the lessor issued or to be issued under the said mortgage or deed of trust to the trustee, as said coupons mature and become payable, which payment may at the option of the lessee be made by paying the coupons directly upon such bonds as they mature respectively upon the first days of January and July in each year.

Amounts necessary
for sinking fund,

4. The amounts necessary for the creation of the sinking fund provided in said first mortgage when and as said amounts become by the terms of said first mortgage payable to the trustee.

Also a sum not
exceeding \$5,000
per annum for
maintaining
organization of
B. T. Co.

The lessee will further on or before the first day of July in each year during the term hereby granted, pay to the lessor or at the option of the lessee to the trustee for the use of the lessor, such sum not exceeding five thousand dollars per annum as the lessor shall by resolution of its board of directors certify to be requisite for the mainte-

ice of its corporate organization, the salaries of its necessary officers, the compensation of its board of directors for other expenses of administration.

Lease of B. T. Co.
to C. M.

Fourth. The lessee covenants to and with the lessor to and with the trustee severally as follows:

The lessee assumes the observance and performance of the conditions of said indenture of mortgage or deed of trust above recited, made by the lessor to the trustee, and will faithfully and punctually observe, keep and perform the same and each thereof so far as it lawfully may, and will and will indemnify and hold harmless the lessor of and from any forfeiture, loss or damage, arising out of any breach of the conditions of said mortgage or deed of trust.

C. M. assumes
mortgage of B. T. Co.

In order to express the obligations into which it has thereby entered, the lessee will under its corporate seal and the signatures of its proper executive officers endorse upon each of the said fifteen hundred bonds of the lessor issued to be issued under said first mortgage made by lessor to the trustee and hereinabove recited a guaranty of the faithful and punctual payment of said bonds and of the interest accruing and to accrue thereon substantially in the following form:—

And will execute
guaranty of
principal and
interest on \$1,500,000
first mortgage
bonds of B. T. Co.

FOR VALUE RECEIVED, THE COLORADO MIDLAND RAILWAY COMPANY hereby guarantees the payment of the principal and interest of the within bond, according to the tenor thereof.

Form of guaranty.

IN WITNESS WHEREOF, THE COLORADO MIDLAND RAILWAY COMPANY has caused this obligation to be signed by its president and its corporate seal, attested by its Assistant Secretary to be hereto affixed, this
day of _____ 1890.

THE COLORADO MIDLAND RAILWAY COMPANY.

By

President.

Attest:

Assistant Secretary.

Lease of B. T. Co.
to C. M.

C. M. covenants
to keep leased
premises in as
good order and
repair as when
received.

Agreement of C. M.
to indemnify
B. T. Co. from any
actions or causes
of action during
term.

Covenants of
B. T. Co.

At expiration of
term to renew
lease for further
term of 45 years.

To maintain its
corporate existence
and do all necessary
corporate acts.

Fifth. The lessee further covenants to and with the lessor and to and with the trustee severally as follows:—

The lessee will during all the term of this lease, at its own expense and cost keep, preserve and maintain the premises and property hereby demised in good order and repair as when received by it, and will at all times keep and maintain the said line of railway of the lessor in good and proper condition for the passage thereover of both freight and passenger traffic and will keep at all times, the tunnel of the lessor free from water and fallen rock and other obstructions.

The lessee shall and will save harmless and indemnify the lessor from and against all causes of action, legal or equitable, arising out of or by reason of the ownership of the lessor of the demised property during the term of this lease, or the occupancy thereof by the lessee during said term, or by reason of the acts or neglect of the lessee, or the failure by the lessee or any of its officers, agents or employees to fulfil any duty toward the lessor, or toward the public, or any person or persons whomsoever, which the lessor by reason of its said ownership, or the lessee by reason of its occupancy of the demised premises, or otherwise, may owe, and shall and will at its own cost and expense defend all actions of every kind which may be brought against the lessor and shall pay all amounts which may be recovered therein against the lessor for or upon said causes of action.

Sixth. The lessor covenants to and with the lessee, and further covenants to and with the trustee as follows:—

The lessor at the expiration of the term hereby granted shall and will grant another lease of the premises hereby demised, for a further term of forty-five years, on the terms, conditions and stipulations of this indenture, including this agreement for renewal.

During the term of this lease the lessor will preserve and maintain its corporate organization and do all and singular such acts and things as may be necessary or required by law to maintain and renew or extend its corporate existence.

In order to enable the lessee to avail itself of the right or privilege reserved by said mortgage or deed of trust made by lessor to the CONTINENTAL TRUST COMPANY OF THE CITY OF NEW YORK to redeem the bonds of the lessor secured thereby, and at any time outstanding, in accordance with the terms and conditions for the redemption of said bonds in said mortgage or deed of trust contained, the lessor if and as often as the lessee shall notify the lessor in writing more than four months prior to any day upon which, under the terms of said mortgage or deed of trust, the lessor may redeem its bonds or any part thereof, that the lessee desired to have redeemed, bonds to the amount stated in such notice, upon the next succeeding day when redemption thereof may be made and upon the deposit by the lessee with the trustee of the amount of money necessary to make such redemption, will notify the trustee that it, the lessor, elects to redeem said bonds in pursuance of and in accordance with the provisions of said mortgage or deed of trust regarding such redemption and such provisions of said mortgage or deed of trust, relating to the redemption of said bonds, shall thereupon be exercised on behalf of and for the benefit of the lessee.

Lease of B. T. Co.
to C. M.
Provision for
redemption by
C. M. of bonds of
B. T. Co. under terms
of mortgage.

Seventh. IT IS MUTUALLY COVENANTED as follows:—

The lessee shall and will, at the end of the term hereby granted, or any renewal thereof, or the sooner determination of this lease, redeliver and surrender up to the lessor the demised premises and property in good order and condition, with such additions, alterations and improvements as shall have been made thereto.

C. M. to redeliver
premises in good
condition at end
of term.

If the lessee shall, at any time or times hereafter during the continuance of this agreement, omit or fail to make the payments hereinabove agreed to be made, or any of them, or shall fail punctually and faithfully to observe, keep and perform any other of the covenants and agreements thereof, then, and in either of such cases, the lessor may at any time, either

If C. M. fails to
make payments
or perform
covenants hereunder,

1. Proceed by proper action or actions in the proper courts, either at law or in equity to enforce performance of such covenants by the lessee or to recover damages for the breach thereof.

B. T. Co. may
enforce performance
at law or in
equity.

Lease of B. T. Co.
to C. M.
Or may terminate
this lease.

But B. T. Co.
in this case may
recover from C. M.
all amounts
then due.

Trustee may
enforce covenants
of both parties or
either of them, for
protection of
bondholders.

Agreement of
June 17, 1890, not
superseded by this
lease, but to remain
in force, and C. M.
assumes covenants
of B. T. Co. therein
contained.

2. By notice in writing determine this agreement and thereupon enter into and upon its said line of railway, and shall thenceforth hold, possess and enjoy the same free from any right of the Railway Company, or its assigns, to use the said railway for any purposes whatsoever, and thereupon any right, title and interest of the lessee to the use of said railway shall absolutely cease and determine as though these presents had never been made; but the lessor shall nevertheless have the right to recover from the lessee any and all amounts which under the terms hereof may be then due and unpaid for the use of the said line of railway.

The trustee shall have the right, in its discretion, to enforce and require the enforcement of the covenants herein contained on the part of the lessee and the lessor, or either of them, and shall have the right independently, by proper action in equity or at law, or by entry upon the said line of railway, to enforce the performance thereof, or of any of them, severally, and shall do or perform or require the performance of such act or acts as shall be proper to protect the said trustee and the holders of the said bonds of the lessor, with defence or set-off, on account of acts, omissions or liabilities of either the lessor or the lessee to each other while the said bonds of the lessor shall be outstanding and unpaid, and it shall have the right and power to proceed upon this lease for any default by the lessee, in the same manner and to the same extent as is herein provided as to the lessor, and to use and put in force all the remedies as provided hereby on behalf of the lessor.

Eighth. This lease shall not be deemed to supersede the said agreement bearing date the seventeenth day of June, 1890, hereinabove recited, for the use by the lessee of the line of railway of the lessor, nor shall the said contract be deemed to be merged in this lease, but such agreement shall in all respects continue in force as a valid existing agreement, and the lessee assumes the observance and performance of the covenants of said agreement on the part of the lessor to be observed, kept and performed whether with the lessee or with the trustee and shall and will indemnify and hold harmless the lessor of and from any

forfeiture, loss or damage arising out of any breach of said covenants of said agreement.

Lease of B. T. Co.
to C. M.

Any sums which shall be paid to the trustee by the lessee by way of rental under this lease shall be deemed and be taken to be, so far as the same are sufficient for such purposes, a payment under the terms of said agreement of the seventeenth day of June, 1890, and a satisfaction thereof to that extent.

Payments to
Trustee under this
lease to be deemed
pro tanto payment
under agreement of
June 17, 1890.

Ninth. All the covenants, stipulations and agreements of this indenture, shall extend to the successors, heirs and assigns of the parties respectively, by and to whom the same have been made.

Covenants to
extend to successors
and assigns of
parties.

Tenth. This lease shall take effect only on the approval or ratification thereof by the stockholders of the Tunnel and Railway Companies, parties hereto, respectively, at meetings duly called or held for that purpose.

Lease to take
effect on ratification
by stockholders.

IN WITNESS WHEREOF, the lessor and the trustee have hereunto caused their respective corporate seals to be affixed, and these presents to be signed by their respective presidents and secretaries the day and year first above written; and the lessee has hereunto caused its corporate seal to be affixed and these presents to be signed by the Chairman of the Board of Directors and its Assistant Secretary the day and year aforesaid.

Attesting clause.

THE BUSK TUNNEL RAILWAY COMPANY.

By A. W. SHERMAN,

[SEAL]

President.

Attest:

G. W. BASHFORD,

Secretary.

THE CONTINENTAL TRUST COMPANY OF THE CITY OF
NEW YORK.

By HENRY A. OAKLEY,

[SEAL]

President.

Attest:

WM. HENRY REESE,

Secretary.

The C. M. Ry. Co.

980

Lease of B. T. Co.
to C. M.

THE COLORADO MIDLAND RAILWAY COMPANY.

By J. R. BUSK,
Chairman of the Board.

[SEAL]

Attest:

OSCAR BUNKE,
Ass't Sec'y.

Acknowledgment
of B. T. Co.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

On this nineteenth day of June, in the year eighteen hundred and ninety, before me, George S. Bixby, a Notary Public in and for the said City, County and State, duly commissioned and sworn, personally appeared Arthur W. Sherman and George W. Bashford, to me personally known and known to me to be same persons described in and who executed the foregoing instrument, and to be the president and Secretary respectively The Busk Tunnel Railway Company, one of the parties described in and which executed the foregoing instrument, and severally acknowledged to me that they executed said instrument by order of the Board of Directors of said Company as its free and voluntary act and deed, and as their own free and voluntary act and deed, for the uses and purposes therein set forth.

Affidavit as to
corporate seal and
signatures of
officers.

And the said George W. Bashford, being by me duly sworn, doth depose and say: that he resides in the city of Yonkers in the State of New York, and is the secretary of the said The Busk Tunnel Railway Company; that he knows the corporate seal of the said Company; that the seal affixed to the foregoing instrument is such corporate seal and was so affixed by authority of the Board of Directors of said Company, and that he signed his name thereto by the like order as Secretary; and the said George W. Bashford further says that he knows the said Arthur W. Sherman and knows him to be the president of said company; that the signature of said Arthur W. Sherman is the genuine handwriting of Arthur W. Sherman, and was subscribed to said instrument by the like order of the Board of Directors and in the presence of him, the said George W. Bashford.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Lease of B. T. Co.
to C. M.

[SEAL]

GEORGE S. BIXBY,
Notary Public.
New York County.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

Certificate as to
qualification of
Notary Public.

I, Edward F. Reilly, Clerk of the City and County of New York, and also Clerk of the Supreme Court for the said City and County, the same being a Court of Record, DO HEREBY CERTIFY, That George S. Bixby, whose name is subscribed to the Certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a Notary Public in and for the City and County of New York, dwelling in the said City, commissioned and sworn, and duly authorized to take the same. And further, that I am well acquainted with the handwriting of such Notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County, the 21st day of June, 1890.

[SEAL]

EDWARD F. REILLY,
Clerk.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

Acknowledgment
of C. M.

On this nineteenth day of June, in the year eighteen hundred and ninety, before me, George S. Bixby, a Notary Public in and for said City, County and State, duly commissioned and sworn, personally appeared Joseph R. Busk and Oscar Bunke, to me personally known and known to me to be the same persons described in and who executed the foregoing instrument, and to be the Chairman of the Board of Directors and Assistant Secretary respectively of The Colorado Midland Railway Company, one of the

Lease of B. T. Co.
to C. M.

parties described in and which executed the foregoing instrument, and severally acknowledged to me that they executed said instrument by order of the Board of Directors of said Company, as its free and voluntary act and deed, and as their own free and voluntary act and deed, for the uses and purposes therein set forth.

Affidavit as to
corporate seal and
signatures of
officers.

And the said Oscar Bunke, being by me duly sworn, doth depose and say; that he resides in the city of Weehawken, in the State of New Jersey, and is the Assistant Secretary of the said The Colorado Midland Railway Company; that he knows the corporate seal of said Company; that the seal affixed to the foregoing instrument is such corporate seal and was so affixed by authority of the Board of Directors of said Company; and that he signed his name thereto by the like order as Assistant Secretary; and the said Oscar Bunke further said that he knows the said Joseph R. Busk and knows him to be the Chairman of the Board of Directors of said Company; that the signature of said Joseph R. Busk is the genuine handwriting of said Joseph R. Busk, and was subscribed to said instrument by the like order of the Board of Directors and in the presence of him, the said Oscar Bunke.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

GEORGE S. BIXBY,

Notary Public.

New York County.

[SEAL]

Certificate of Clerk same as above.

Certificate as to
qualification of
Notary Public.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.

On this nineteenth day of June, in the year eighteen hundred and ninety, before me, George S. Bixby, a Notary Public in and for said City, County and State, duly commissioned and sworn, personally appeared Henry A. Oakley and William Henry Reese, to me personally known and known to me to be the same persons described in and who executed the foregoing instrument, and to be the

President and Secretary respectively of The Continental Trust Company of the City of New York, one of the parties described in and which executed the foregoing instrument, and severally acknowledged to me that they executed said instrument by order of the Board of Directors of said Company, as its free and voluntary act and deed, and as their own free and voluntary act and deed, for the uses and purposes therein set forth.

Lease of B. T. Co.
to C. M.

And the said William Henry Reese, being by me duly sworn, doth depose and say; that he resides in the town of Wappinger in the State of New York, and is the Secretary of the said The Continental Trust Company of the City of New York; that he knows the corporate seal of said Company; that the seal affixed to the foregoing instrument is such corporate seal and was so affixed by authority of the Board of Directors of said Company, and that he signed his name thereto by the like order as Secretary; and the said William Henry Reese further says that he knows the said Henry A. Oakley and knows him to be the President of said Company; that the signature of said Henry A. Oakley is in the genuine handwriting of said Henry A. Oakley and was thereto subscribed by the like order of the Board of Directors and in the presence of him, the said William Henry Reese.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

GEORGE S. BIXBY,

[SEAL]

Notary Public.

Certificate of Clerk same as above. New York County.

AUTHORIZATION

OF THE FOREGOING LEASE BY THE

STOCKHOLDERS AND DIRECTORS

OF

THE BUSK TUNNEL RAILWAY COMPANY.

Stockholders'
Meeting B. T. Co.
June 19, 1890.

**RECORD OF A MEETING OF THE STOCKHOLDERS OF THE
BUSK TUNNEL RAILWAY COMPANY, HELD ON JUNE 19,
1890.**

At a meeting of the stockholders of THE BUSK TUNNEL RAILWAY COMPANY, duly held, pursuant to notice, at the office of the Company, in the City of New York, on the 19th day of June, 1890.

All the stockholders of the Company were present in person, as follows: —

<i>Names.</i>	<i>Shares.</i>
ARTHUR W. SHERMAN	1
GEORGE W. BASHFORD	47
WILLIAM H. REESE	1
JOSEPH H. BOND	50
CHARLES E. SANDS	1

Mr. SHERMAN, the president, was in the chair and Mr. BASHFORD was made secretary.

The minutes of the stockholders meeting held on the 17th day of June, 1890, and the minutes of the meeting of the directors named in the certificate of incorporation, and of the meeting of the directors elected by the subscribers to the stock of this Company, held respectively on the said

17th day of June, 1890, were read, and the minutes of said stockholders meeting were in all things approved.

Authorization of
foregoing lease by
stockholders of
B. T. Co.

Mr. Sands offered the following resolution which was seconded by Mr. Bond.

RESOLVED that all action heretofore taken or authorized to be taken by the stockholders of this Company, in its organization, the issue of its stock, the execution and issue of its bonds and the execution and delivery of a mortgage to secure the said issue of its bonds and the execution of a trackage contract with the Colorado Midland Railway Company, or otherwise howsoever, and all action of every nature heretofore taken or authorized to be taken by the board of directors, be, and the same hereby are, in all respects authorized, approved, confirmed and ratified.

The vote on such resolution was taken by shares and the said resolution was adopted by the unanimous vote of all the stock of the Company, to wit:—

ARTHUR W. SHERMAN	1 share
GEORGE W. BASHFORD	47 "
WILLIAM H. REESE	1 "
JOSEPH H. BOND	50 "
CHARLES E. SANDS	1 "

Mr. SANDS offered the following preamble and resolutions which were seconded by Mr. Bond.

WHEREAS this Company is about to enter upon the construction of its line of railway, commencing at a point on the Colorado Midland Railway, in township nine (9) south, range eighty-one (81) west of the sixth principal meridian, in the County of Lake, in the State of Colorado, at the railway station known as Busk, running thence in a general westerly direction, by the most feasible route, in part by means of a tunnel, to a point on said Colorado Midland Railway, in township nine (9) south, range eighty-two (82) west of the sixth principal meridian, in the County of Pitkin and State of Colorado, at or near the railway station known as Ivanhoe, including the necessary side tracks, spurs, and branches and other appurtenances; and

WHEREAS, in pursuance of resolutions of its stockholders

Authorisation of
foregoing lease by
stockholders of
B. T. Co.

and board of directors, this Company has determined to issue its fifteen hundred bonds for \$1,000 each, to bear date on the 1st day of July 1890, and mature on the 1st day of July 1935, with interest at the rate of seven per cent per annum, payable semi-annually according to the tenor of the coupons to be annexed to such bonds, on the 1st days of January and July in each year, and to secure the payment of such bonds by a mortgage or deed of trust to the Continental Trust Company of the City of New York, on and of all its property and franchises, now owned or at any time hereafter to be acquired; and

WHEREAS the Colorado Midland Railway Company is the owner and is engaged in the operation of a railway line extending from the City of Colorado Springs, in El Paso County, in the State of Colorado, to the town of Newcastle, Garfield County and State of Colorado, crossing the main range of the Rocky Mountains, commonly known as the Saguache Range, between the two railroad stations called Busk and Ivanhoe; and

WHEREAS in pursuance of resolutions of its stockholders and directors, this Company has entered into an agreement bearing date the 17th day of June, 1890, made between this Company of the one part, the Colorado Midland Railway Company of the second part and the Continental Trust Company of the City of New York of the third part, whereby this Company has granted to said Colorado Midland Railway Company, under the terms and conditions therein set forth, the right to use the tracks of this Company between said stations of Busk and Ivanhoe, for the period of forty-five years from the first day of July, 1890, for the transportation of freight and passengers over said portion of the line of railway of this Company; and

WHEREAS the said line of railway of the Colorado Midland Railway Company and this Company will, on the completion of the line of railway of this Company, connect at said points called Busk and Ivanhoe and said lines thereupon become connecting roads; and

WHEREAS it is deemed desirable that the Colorado Midland Railway Company should control and operate the

line of railway of this Company when completed, as lessee thereof.

Authorization of
foregoing lease by
stockholders of
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RESOLVED that the board of directors be, and they hereby are, authorized and empowered, for, in the name and on behalf of the Company, and under its corporate seal, to enter into an agreement with the said Colorado Midland Railway Company, leasing to the said Colorado Midland Railway Company, the line of railway and other property of this Company, for such compensation, on such terms and conditions, and for such period of time, as the board of directors shall approve, but subject however in all respects to the said mortgage or deed of trust made by this Company to the Continental Trust Company of the City of New York, to secure said issue of its bonds and to the said trackage agreement hereinabove recited.

The vote on such preamble and resolution was taken by shares, and the said preamble and resolution were unanimously adopted by the vote of all the stock of the Company, to wit:

ARTHUR W. SHERMAN	1 share
GEORGE W. BASHFORD	47 "
WILLIAM H. REESE	1 "
JOSEPH H. BOND	50 "
CHARLES E. SANDS	1 "

On motion adjourned.

A. W. SHERMAN,
Chairman.

G. W. BASHFORD,
Secretary.

I hereby certify that the foregoing is a true copy of the minutes of the meeting of stockholders of the Busk Tunnel Railway Company held in New York on the 19th day of June 1890.

Certificate of
Sec'y as to
correctness of
foregoing minutes.

OSCAR BUNKE,
Secretary Busk Tunnel Ry. Co.

NEW YORK, December 28, 1892.

Authorization of
foregoing lease by
directors of
B. T. Co.

EXTRACT FROM THE RECORD OF A MEETING OF THE DIRECTORS OF THE BUSK TUNNEL RAILWAY COMPANY, HELD ON JUNE 19, 1890.

Directors' Meeting
B. T. Co.
June 19, 1890.

At a meeting of the board of directors of THE BUSK TUNNEL RAILWAY COMPANY, held at the office of the Company in the City of New York, on the 19th day of June 1890.

Present Messrs. Sherman, Bashford, Reese, Bond and Sands.

The minutes of all previous meetings both of the board of directors named in the certificate of incorporation of the Company and of the Board of Directors elected by the stockholders of the Company were read and in all things approved.

Mr. Sands offered the following resolution, which was duly seconded by Mr. Bond, and adopted by the unanimous vote of all the members of the Board.

RESOLVED that all action of every nature heretofore taken or authorized to be taken by the board of directors be and the same hereby is, in all respects, authorized, approved, confirmed and ratified.

The Chief Engineer again laid before the board a map showing the location of the proposed line of railway of the Company, and

On motion, duly seconded, said location was unanimously approved and adopted, as the definite location of the line of railway of the Company, and the president and secretary were authorized to file in the office of the secretary of the Interior a verified list of the officers of the Company, with the full name and official designation of each, a certificate of the completion of the organization of the Company, and that it is fully authorized to proceed with the construction of its road, according to the existing laws of the State of Colorado, and a certified copy of the certificate of organization of the Company, and to take such further action as in their judgment might be necessary or expedient, under the laws of the United States, to obtain for the Company a right of way over any public lands.

Mr. Sands offered the following resolution which was duly seconded by Mr. Bond and adopted by the unanimous vote of all the members of the board.

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WHEREAS this Company is about to enter upon the construction of its line of railway, commencing at a point on the Colorado Midland Railway, in township nine (9) south, range eighty-one (81) west of the sixth principal meridian, in the County of Lake in the State of Colorado at the railway station known as Busk, running thence in a general westerly direction, by the most feasible route in part by means of a tunnel, to a point on said Colorado Midland Railway, in township nine (9), south, range eighty-two (82) west of the sixth principal meridian, in the County of Pitkin and State of Colorado, at or near the railway station known as Ivanhoe including the necessary side tracks, spurs and branches and other appurtenances; and

WHEREAS in pursuance of resolutions of its stockholders and board of directors, this Company has determined to issue its fifteen hundred bonds for \$1,000 each, to bear date on the 1st day of July, 1890, and mature on the 1st day of July, 1935 with interest at the rate of seven per cent per annum payable semi-annually, according to the tenor of coupons to be annexed to such bonds, on the 1st days of January and July in each year, and to secure the payment of such bonds by a mortgage or deed of trust to the Continental Trust Company of the City of New York, on and of all its property and franchises, now owned or at any time hereafter to be acquired; and

WHEREAS the Colorado Midland Railway Company is the owner and is engaged in the operation of a railway line extending from the City of Colorado Springs, in El Paso County, in the State of Colorado, to the Town of Newcastle, Garfield County, and State of Colorado, crossing the main range of the Rocky Mountains, commonly known as the Saguache Range, between the two railroad stations called Busk and Ivanhoe; and

WHEREAS, in pursuance of resolutions of its stockholders and directors, this Company has entered into an agreement bearing date the seventeenth day of June, 1890, made be-

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foregoing lease by
directors of
B. T. Co.

tween this Company, of the one part, the Colorado Midland Railway Company, of the second part, and the Continental Trust Company of the City of New York of the third part, whereby this Company has granted to said Colorado Midland Railway Company, under the terms and conditions therein set forth, the right to use the tracks of this Company between said stations of Busk and Ivanhoe, for the period of forty-five years from the first day of July, 1890, for the transportation of freight and passengers over said portion of the line of railway of this Company; and

WHEREAS the said lines of railway of the Colorado Midland Railway Company and this Company will on the completion of the said line of railway of this Company, connect at said points called Busk and Ivanhoe and said lines thereupon become connecting roads; and

WHEREAS it is deemed desirable that the Colorado Midland Railway Company should control and operate the line of railway of this Company when completed, as lessee thereof.

RESOLVED that this Company lease to the said Colorado Midland Railway Company the line of railway and other property of this Company.

A form of lease between this Company, of the first part, The Colorado Midland Railway Company, of the second part, and the Continental Trust Company of the City of New York, of the third part, of the line of railway of this Company was laid before the board:

[Here is inserted in the record of the meeting a Copy of the Lease.]

On motion the same was unanimously approved and the president and secretary were authorized and directed, for, on behalf and in the name of the Company and under its corporate seal, to execute in triplicate, and to acknowledge, a lease substantially in said form, and to deliver one copy thereof to the said Colorado Midland Railway Company, and one copy thereof to the said Continental Trust Company of the City of New York.

I hereby certify that the foregoing, is a true copy of that
portion of the minutes of the meeting of directors of the
Busk Tunnel Railway Company held in New York on
the 19th day of June, 1890, which relates to the lease of the
Busk Tunnel Railway to the Colorado Midland Railway
Company.

Authorization of
foregoing lease by
directors of
B. T. Co.

Certificate of Sec'y
as to correctness
of foregoing minutes.

OSCAR BUNKE,
Secretary Busk Tunnel Railway Co.

N.Y. January 10, 1893.

RATIFICATION

OF THE

FOREGOING LEASE

BY THE STOCKHOLDERS OF

THE COLORADO MIDLAND RAILWAY COMPANY.

Stockholders'
meeting C. M.
Aug. 11, 1890.

RECORD OF A SPECIAL MEETING OF THE STOCKHOLDERS OF
THE COLORADO MIDLAND RAILWAY COMPANY, HELD
AT COLORADO SPRINGS, COLORADO ON AUGUST 11TH,
1890.

A Special Meeting of Stockholders of the Colorado Midland Railway Company, duly called by order of the Board of Directors, for the purposes hereinafter set forth, was held at the office of the Company, Hagerman Block, Colorado Springs, Colorado, on Monday, August 11th, 1890, at 12 o'clock noon.

The meeting was called to order by Vice President, Henry T. Rogers.

The Secretary read call for the meeting, as follows;

Colorado Midland Railway Company.

SECRETARY'S OFFICE.

COLORADO SPRINGS, COLO., July 1st, 1890.

Dear Sir:

A SPECIAL MEETING of the stockholders of THE COLORADO MIDLAND RAILWAY COMPANY will be held at the office of the Company in Colorado Springs, Colo., on the 11th day of August, 1890, at 12 o'clock noon, for the following purposes:

First. To consider and act upon an agreement entered into by the Board of Directors of this Company, subject, however, to the approval of the Stockholders in meeting

duly assembled, with the Busk Tunnel Railway Company, for the use by this Company of a Railway about to be constructed by said Tunnel Company, between those two stations on the line of this Company's road known as Busk and Ivanhoe.

Ratification of
foregoing lease by
stockholders of C. M.

Second. To consider and act upon a lease entered into by the Board of Directors of this Company, subject, however, to the approval of the Stockholders in meeting duly assembled, with the Busk Tunnel Railway Company for the leasing by this company of a railway about to be constructed by said Tunnel Company between said stations Busk and Ivanhoe.

Third. To consider the action of the Board of Directors of this Company in authorizing the guaranty by this Company of the payment, principal and interest, of the First Mortgage Gold Bonds of the Busk Tunnel Railway Company to an amount not exceeding \$1,500,000.

If you cannot be present at this meeting, please execute and return proxy.

Secretary.

and stated that he deposited in the Post Office at Colorado Springs on the second day of July, 1890, a copy of said notice, duly enveloped, stamped and addressed to each stockholder at his last known address.

The Secretary also produced certificates of the publication of said notice in the Colorado Springs Gazette and the New York Sun, showing that notice of said meeting had been published in each of said papers for a period of more than ten (10) days previous to the date of the meeting.

Said notices and certificates are as follows:

[Here follows copy of notices and certificates in the record of the meeting.]

The Secretary then produced a list of the Stockholders of record July 31st, 1890, certified to by the Transfer Agent, calling the roll of Stockholders.

The Chairman appointed Messrs. J. Quinlan and Rob't C. Hotson tellers and announced that a recess would be taken until 2 o'clock for the purpose of enabling the tellers to make their report.

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foregoing lease by
stockholders of C. M.

The meeting re-assembled at 2 o'clock, and the tellers then submitted their report, which was ordered placed on file, and which shows that the whole number of shares of capital stock outstanding was 80,000. That there were represented in person the following Stockholders holding the respective number of shares set opposite their names.

IRVING HOWBERT,	320 shares
HENRY T. ROGERS,	<u>253 shares</u>
Total,	573 shares

and that there was represented by proxy, as follows;

HENRY C. LOWE,	11,836 shares
IRVING HOWBERT & HENRY T. ROGERS,	<u>45,507 shares</u>
Total,	57,343 shares

Total number of shares represented in person,	373 shares
Total number of shares represented in proxy	<u>57,343 shares</u>
Grand total of shares represented at meeting	57,916

the same being more than two-thirds of the capital stock of the company.

The proxies were then ordered placed on file.

The Chairman then stated that the first business before the meeting would be the consideration of an agreement with the BUSK TUNNEL RAILWAY COMPANY for the use by this Company of a Railway about to be constructed by said Tunnel Company between those stations on the line of the Colorado Midland Railway Company known as Busk and Ivanhoe.

Thereupon Mr. Irving Howbert offered the following preambles and resolution:

WHEREAS, this Company is the owner and engaged in the operation of a Railway line extending from the City of Colorado Springs, El Paso County, Colorado, to the town of New Castle, Garfield County, Colorado, crossing the main range of the Rocky Mountains commonly known as Saguache Range, between the two railway stations called Busk and Ivanhoe; and

WHEREAS, the Busk Tunnel Railway Company is about to enter upon the construction of a line of railway, extending in part by means of a tunnel, from a point on the railway of this Company at or near the station called Busk, in Lake County, to a point on said railway at or near the station called Ivanhoe, in Pitkin County, said railway being about three and one-quarter miles in length, more or less; and

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stockholders of C. M.

WHEREAS, in pursuance of resolutions of its Board of Directors and of its Stockholders, said Busk Tunnel Railway Company has determined to issue its 1,500 bonds for \$1,000 each, to bear date the 17th day of June, 1890, and to be payable on the first day of July, 1935, with interest at the rate of seven per cent. per annum, payable semi-annually on the first days of January and July in each year, and, to secure the payment of said bonds, to execute and deliver a mortgage or deed of trust bearing date the 17th day of June, 1890, to the Continental Trust Company of the City of New York, on all its railway, property and franchises, then owned or thereafter to be acquired by it; and

WHEREAS, this Company by connecting its road with the said road of the Busk Tunnel Railway Company at or near said stations called Busk and Ivanhoe and operating its trains between said points, over said road of the Busk Tunnel Railway Company, will avoid the heavy grades and severe curvature which exists on that portion of its own road now operated by it, and will escape the deep snows incident to that portion of its line, and will in other ways greatly reduce the expenses of operation between said stations, and will in other ways be greatly benefited; and

WHEREAS, to the ends aforesaid, it is expedient that this Company obtain from the said Busk Tunnel Railway Company the right to use said tracks of said B. T. Ry. Co. between said points of connection at or near said stations of Busk and Ivanhoe respectively, for the passage of all the engines, cars and freight of this Company, as well as all passengers on its trains; and

WHEREAS, a trackage contract has been made bearing

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foregoing lease by
stockholders of C. M.

date the 17th day of June, 1890, between the said Busk Tunnel Railway Company, of the first part, this Company, of the second part, and the Continental Trust Company, of the third part, granting to the said Company the right to use the said tracks of the Busk Tunnel Railway Company upon the terms and conditions of said agreement set forth; and

WHEREAS, said trackage contract is subject to the ratification or approval thereof by the Stockholders of the Busk Tunnel Railway Company and of this Company, to be held at meetings to be called and held for that purpose,

RESOLVED, that said trackage contract and the terms and conditions thereof, be and the same hereby are, in all things, approved.

RESOLVED, that the execution of said trackage contract for and on behalf of this Company, and all action heretofore taken by the Board of Directors in procuring the execution thereof, and in the execution and delivery thereof, be and the same hereby are, ratified and confirmed.

RESOLVED, that the Board of Directors be, and the same hereby are, authorized to take all such further action as may be necessary, or in their judgment expedient, to carry into effect the provisions of said trackage contract.

RESOLVED, that the Board of Directors be, and the same hereby are, authorized, in consideration of said trackage contract, to cause to be endorsed upon said issue of bonds of said Tunnel Company a guaranty under the corporate seal of this Company of the payment of the principal and interest thereof.

[Here follows in the record of the meeting a copy of the trackage contract above referred to.]

Said preambles and resolution having been duly seconded were put to vote, and upon call of the roll of stockholders there were cast in favor of the same 57,916 shares of stock and against the same none.

It appearing that the holders of more than $\frac{2}{3}$ of the capital stock of the Company had voted in favor of said

olution, the same was declared carried, and said agreement declared approved and ratified.

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foregoing lease by
stockholders of C. M.

The Chairman then stated that the next business before the meeting would be the consideration of a lease entered into by this Company and the Busk Tunnel Railway Company, for the leasing by this Company of a railway about to be constructed by said Tunnel Company between those stations on the Colorado Midland Railway known as Busk and Ivanhoe.

Thereupon Mr. Irving Howbert offered the following preamble and resolution;

WHEREAS, this Company is the owner and is engaged in the operation of a railway line extending from the City of Colorado Springs, Garfield County, Colorado, crossing the main range of the Rocky Mountains, commonly known as Guache Range, between the two railway stations called Busk and Ivanhoe; and

WHEREAS, the Busk Tunnel Railway Company is about to enter upon the construction of a line of railway, extending in part by means of a tunnel, from a point on the railway of this Company at or near the station called Busk, in Lake County, to a point on said railway at or near the station called Ivanhoe, in Pitkin County, said railway being about three and one-quarter miles in length, more or less; and

WHEREAS, in pursuance of resolutions of its Board of Directors and of its Stockholders, said Busk Tunnel Railway Company has determined to issue its 1,500 bonds for \$1,000 each, to bear date the 17th day of June, 1890, and to be payable on the first day of July, 1935, with interest at the rate of seven per cent. per annum, payable semi-annually on the first days of January and July in each year, and, to secure the payment of said bonds, to execute and deliver a mortgage or deed of trust bearing date the 17th day of June, 1890, to the Continental Trust Company of the City of New York, on all its railway, property and franchises, then owned or thereafter to be acquired by it; and

WHEREAS, this Company has entered into an agreement

Ratification of
foregoing lease by
stockholders of C. M.

date the 17th day of June, 1890, between the said Busk Tunnel Railway Company, of the first part, this Company, of the second part, and the Continental Trust Company of the City of New York, of the third part, granting to this Company the right to use the said tracks of the Busk Tunnel Railway Company upon the terms and conditions in said agreement set forth; and

WHEREAS, said trackage contract is subject to the ratification or approval thereof by the Stockholders of the Busk Tunnel Railway Company and of this Company, to be had at meetings to be called and held for that purpose,

RESOLVED, that said trackage contract and the terms and conditions thereof, be and the same hereby are, in all things, approved.

RESOLVED, that the execution of said trackage contract for and on behalf of this Company, and all action heretofore taken by the Board of Directors in procuring the execution thereof, and in the execution and delivery thereof, be, and the same hereby are, ratified and confirmed.

RESOLVED, that the Board of Directors be, and they hereby are, authorized to take all such further action as may be necessary, or in their judgment expedient, to carry into effect the provisions of said trackage contract.

RESOLVED, that the Board of Directors be, and they hereby are, authorized, in consideration of said trackage contract, to cause to be endorsed upon said issue of bonds of said Tunnel Company a guaranty under the corporate seal of this Company of the payment of the principal and interest thereof.

[Here follows in the record of the meeting a copy of the trackage contract above referred to.]

Said preambles and resolution having been duly seconded were put to vote, and upon call of the roll of stockholders there were cast in favor of the same 57,916 shares of stock, and against the same none.

It appearing that the holders of more than $\frac{2}{3}$ of the capital stock of the Company had voted in favor of said

resolution, the same was declared carried, and said agreement declared approved and ratified.

Ratification of
foregoing lease by
stockholders of C. M.

The Chairman then stated that the next business before the meeting would be the consideration of a lease entered into by this Company and the Busk Tunnel Railway Company, for the leasing by this Company of a railway about to be constructed by said Tunnel Company between those stations on the Colorado Midland Railway known as Busk and Ivanhoe.

Thereupon Mr. Irving Howbert offered the following preamble and resolution;

WHEREAS, this Company is the owner and is engaged in the operation of a railway line extending from the City of Colorado Springs, Garfield County, Colorado, crossing the main range of the Rocky Mountains, commonly known as Saguache Range, between the two railway stations called Busk and Ivanhoe; and

WHEREAS, the Busk Tunnel Railway Company is about to enter upon the construction of a line of railway, extending in part by means of a tunnel, from a point on the railway of this Company at or near the station called Busk, in Lake County, to a point on said railway at or near the station called Ivanhoe, in Pitkin County, said railway being about three and one-quarter miles in length, more or less; and

WHEREAS, in pursuance of resolutions of its Board of Directors and of its Stockholders, said Busk Tunnel Railway Company has determined to issue its 1,500 bonds for \$1,000 each, to bear date the 17th day of June, 1890, and to be payable on the first day of July, 1935, with interest at the rate of seven per cent. per annum, payable semi-annually on the first days of January and July in each year, and, to secure the payment of said bonds, to execute and deliver a mortgage or deed of trust bearing date the 17th day of June, 1890, to the Continental Trust Company of the City of New York, on all its railway, property and franchises, then owned or thereafter to be acquired by it; and

WHEREAS, this Company has entered into an agreement

Ratification of
foregoing lease by
stockholders of C. M.

bearing date the 17th day of June, 1890, made between the Busk Tunnel Railway Company of the first part, this Company, of the second part, and the Continental Trust Company of the City of New York, of the third part, whereby the said Busk Tunnel Railway Company granted to this Company, under the terms and conditions therein set forth, the right to use said tracks of the Busk Tunnel Railway Company between said stations called Busk and Ivanhoe, for a period of forty-five years from the first day of July, 1890, for the transportation of freight and passengers; and

WHEREAS, it is expedient that this Company should obtain the exclusive use of said line of railway of said Busk Tunnel Railway Company; and

WHEREAS, the said lines of railway of this Company and of the said Busk Tunnel Railway Company will, on the completion of said line of railway of said Busk Tunnel Railway Company, connect at or near said points called Busk and Ivanhoe, and thereupon become connecting roads; and

WHEREAS, it is desirable that this Company should control and operate the lines of railway, when completed, of the said Busk Tunnel Railway Company, as the lessee thereof; and

WHEREAS, a lease has been duly executed, bearing date the 19th day of June, 1890, between said Busk Tunnel Railway Company, of the first part, this Company, of the second part, and the Continental Trust Company of the City of New York, of the third part, of the said railway of the Busk Tunnel Railway Company upon the terms and conditions in said lease set forth; and

WHEREAS, said lease is subject to the ratification or approval thereof of the stockholders of the said Busk Tunnel Railway Company and of this Company, to be had at meetings to be called and held for that purpose.

RESOLVED, that said lease, and the terms and conditions thereof, be, and the same hereby are, in all things, approved.

RESOLVED, that the execution of said lease for and on behalf of this Company, and all action heretofore taken

by the Board of Directors in procuring the execution and delivery thereof, be, and the same hereby are, ratified and confirmed.

Ratification of
foregoing lease by
stockholders of C. M.

RESOLVED, that the Board of Directors be, and they hereby are authorized, in accordance with the terms of said lease, to cause to be endorsed upon the said issue of bonds of the Busk Tunnel Railway Company a guaranty under the corporate seal of this Company, of the payment of the principal and interest thereof; and that such Board be, and they hereby are, authorized to take such further action as may be necessary or in their judgment expedient to carry into effect the provisions of said lease.

[Here is inserted in the record of the meeting a copy of the Lease.]

Said preamble and resolution having been duly seconded were put to vote, and upon call of the roll of stockholders there were cast in favor of the same 57,916 shares of stock, and against the same none.

It appearing that the holders of more than $\frac{2}{3}$ of the capital stock of the Company had voted in favor of said resolution, the same was declared carried, and said lease declared approved and ratified.

The Chair then stated that the next business before the meeting would be the consideration of the action of the Board of Directors in authorizing the guaranty by this Company of the payment of the principal and interest by this Company of the First Mortgage Gold Bonds of the Busk Tunnel Railway Company to an amount not exceeding \$1,500,000.

Thereupon Mr. Irving Howbert offered the following resolution:

RESOLVED, that the action of the Board of Directors, in authorizing the guaranty by this Company under its corporate seal of the payment, principal and interest, of the First Mortgage Gold Bonds of the Busk Tunnel Railway Company to an amount not exceeding one million five hundred

Agreement between Atchison Co. and certain stockholders of C. M. for purchase of the shares of that Co.

\$10 per share to be paid on delivery.

\$10 more per share within 12 months, with 5% interest.

Balance of \$30 per share on or before Nov. 15, 1890, in stock of Atchison Co. at 45.

Atchison Co. to receive within 90 days all C. M. stock delivered to K. P. & Co. as Trustees.

Agreement of Atchison Co. to guarantee C. M. 4% Consol. Mortg. bonds not exceeding \$6,000,000.

Guarantee to be stamped on bonds after Nov. 15, 1890, if majority of C. M. stock is delivered to Trustees before that date.

C. M. to be turned over at any time after delivery to K. P. & Co. of Atchison stock to be delivered under this agreement.

Midland Railway Company at the rate of Fifty Dollars per share, as follows:

I. Ten dollars per share, in cash, upon the delivery to the above named Trustees of not less than Forty one thousand shares.

II. Ten dollars per share, at such time within twelve months from date of this agreement, as the party of the first part may elect, such deferred payment to bear interest at the rate of five per centum per annum from the date of this agreement until such payment is made.

III. The balance of thirty dollars per share to be paid by the party of the first part on or before the fifteenth day of November, 1890, in the shares of the full paid capital stock of the Atchison Topeka & Santa Fe Railroad Company at the price of Forty five dollars per share.

Third. The party of the first part undertakes and agrees that it will, at any time within ninety days from the date of this agreement, receive and pay for, as above, all shares of the stock of the said The Colorado Midland Railway Company delivered to the said Kidder, Peabody & Co., as Trustees.

Fourth. The party of the first part as a further consideration for the sale of the said shares of stock of the said The Colorado Midland Railway Company, agrees to guarantee the payment, principal and interest, as and when the same matures, of the Consolidated Mortgage Four Per Cent Gold Bonds of the said The Colorado Midland Railway Company, to an amount not exceeding Six Million Dollars, and to cause such contract of guarantee to be stamped upon each of said bonds as and when the same may be presented, at the office of the Atchison Topeka & Santa Fe Railroad Company, in Boston, at any time after the fifteenth day of November, 1890, provided a majority of the shares of stock of the said The Colorado Midland Railway Company have been delivered to the said Trustees before that date.

Fifth. The parties of the second part undertake and agree that at any time after the delivery to Messrs. Kidder Peabody & Co., as Trustees, for account of the parties of the second part, of the shares of the capital stock of the

Atchison Topeka & Santa Fe Railroad Company, provided to be delivered under this agreement, they will cause to be turned over to the party of the first part, or to its officers or nominees, the possession, control and management of all the property of said The Colorado Midland Railway Company under the same tenure and estate as the said property is now held by The Colorado Midland Railway Company, and that upon like demand the parties of the second part will cause to be elected eleven persons, nominees of the party of the first part, as Directors of the said The Colorado Midland Railway Company.

Agreement between Atchison Co. and certain stockholders of C. M. for purchase of the shares of that Co.

Sixth. All of the shares of the capital stock of The Colorado Midland Railway Company delivered to Messrs. Kidder Peabody & Co., under the terms of this agreement, shall be held by them in trust and as security for the deferred payments provided to be made upon said shares and shall not be turned over to the party of the first part until such payments have been made in full.

Atchison stock delivered to K. P. & Co. to be held as security for deferred payments.

Seventh. It is further agreed that in the event that the party of the first part shall fail to comply with its undertaking to make any of the deferred payments herein provided, all previous payments by it shall be forfeited to the parties of the second part as liquidated damages.

If Atchison Co. fails to make deferred payments, it forfeits previous payments.

Eighth. It is further agreed that in the event that pending the consummation of this agreement, The Colorado Midland Railway Company shall be unable to continue to use the tracks of the Denver & Rio Grande Railroad Company for the passage of the trains of The Colorado Midland Railway Company between Denver and Colorado Springs, the party of the first part shall thereupon give the said Midland Railway Company the right to use the tracks of the Denver and Santa Fe Railway Company between Denver and Colorado Springs for a period of not exceeding ninety days upon such terms as to compensation and as to the running of such trains as may hereafter be agreed upon between the Presidents or other duly authorized officers of said Atchison and said Midland Companies and such use of said tracks by said Midland Company shall not be held to be under nor shall it be in any way subject to the condi-

Provision that in case C. M. cannot continue to use track of D. & R. G. between Denver and Colorado Springs, Atchison Co. will give C. M. right to use tracks of D. & S. F. between those points.

**Agreement between
Atchison Co. and
certain stockholders
of C. M. for purchase
of the shares of
that Co.**

tions of the contract of December thirtieth, 1887, between the said Midland Company and the said Atchison Company, nor shall such use of said tracks in any way prejudice or affect any rights of either of said Companies under said contract, nor any right of action for any alleged breach thereof.

Attesting clause.

IN WITNESS WHEREOF the party of the first part has caused this agreement to be signed on its behalf by the Chairman of its Board of Directors and its First Vice President, and the parties of the second part have hereunto set their hands at the City of New York the day and year first above written.

GEO. C. MAGOUN,
Chairman.

J. W. REINHART,
Vice President.

THEO. M. DAVIS,
J. J. HAGERMAN.

**Approval of
foregoing agreement
by directors and
stockholders of
Atchison Co.**

THE FOREGOING AGREEMENT was approved by the directors of the Atchison Company at a meeting held on October 24th, 1890, and subsequently ratified by the stockholders of the said Company at an adjourned annual meeting held on October 30th, 1890.

PERFORMANCE OF FOREGOING AGREEMENT.

**Acquisition by
Atchison Co. of
80,000 shares of
C. M. stock under
foregoing agreement.**

Under the foregoing agreement the Atchison Company acquired 80,000 shares of the capital stock of The Colorado Midland Railway Company, being all of the outstanding shares of the capital stock of said Company.

Under the provisions of the said agreement the Atchison Company guaranteed the principal and interest of the Consolidated Mortgage Bonds of said Railway Company.

Guaranty of
C. M. Consol. Mortg.
bonds by
Atchison Co.

The following is the form of guaranty:

FOR VALUE RECEIVED, the Atchison, Topeka and Santa Fe Railroad Company guarantees the payment of the principal and interest, as and when the same matures, of the within Consolidated Mortgage Four Per Cent. Gold Bond of The Colorado Midland Railway Company.

Form of guaranty.

IN WITNESS WHEREOF, it has caused its corporate seal to be hereto affixed, and this Guaranty to be signed by its Comptroller.

ATCHISON, TOPEKA & SANTA FE RAILROAD COMPANY.

By

Comptroller.

TRUST AGREEMENT

GIVING TO THE

ATCHISON COMPANY

AN OPTION TO PURCHASE 51% OF THE CAPITAL STOCK OF THE
MIDLAND TERMINAL RAILWAY COMPANY

WITHIN A CERTAIN PERIOD.

Nov. 1, 1892.
Parties.

AN AGREEMENT, made and entered into this First day of November, A.D. 1892, by and between H. Collbran, H. P. Lillibridge and R. Newell, Jr., of the State of Colorado, parties of the first part, hereinafter called the first parties, the Atchison, Topeka & Santa Fe Railroad Company, party of the second part, hereinafter termed the Atchison Company, and the Northern Trust Company, party of the third part, hereinafter referred to as the trustee;

Traffic agreement
between M. T. Co.,
the C. M. and
Atchison Cos.
See *post*, p. 1010 .

WHEREAS, an agreement bearing even date herewith is now about to be entered into by and between the Midland Terminal Company, the Colorado Midland Railway Company and the Atchison Company, a copy of which is hereto annexed for the purpose of reference:

Collbran *et al's*.
owners and holders
of all M. T. Co.'s
stock, amounting
at par to \$500,000.

AND WHEREAS, the first parties are the owners and holders of the entire authorized issue of capital stock of the said Midland Terminal Railway Company, amounting at the par value thereof to five hundred thousand dollars and consisting of five thousand shares of one hundred dollars each, full paid and non-assessable:

Agreement in
consideration of
traffic agreement
above named.

NOW THEREFORE, as a further part of the consideration for the stipulations, covenants and undertakings of the Atchison Company and of the Colorado Midland Railway Company, under the said agreement, a copy of which

is attached hereto, the parties hereto do hereby covenant and agree with each other as follows:

SECTION 1: The first parties covenant and agree that within thirty days after the date hereof, they will assign, transfer and deliver to the trustee, certificates for fifty one per cent of the entire number of shares of the authorized capital stock of the said Midland Terminal Railway Company to be held and disposed of by the trustee for the uses and purposes and upon the trusts and powers following, that is to say:

(1) The Atchison Co. shall have the right and option until and including the year 1900 to purchase the shares of stock so to be received and held in trust by the trustee as aforesaid, at its fair cash market value on the day when the Atchison Co. elects to purchase such stock, or if it has no market value at that time, then at its then fair and reasonable cash value. But the Atchison Co. covenants and agrees with the first parties that it will not exercise the option to purchase such shares of stock prior to the year 1896 if the provisions of the said agreement of which a copy is hereunto annexed to be kept and performed by the said Midland Terminal Railway Co. shall in the mean time be fully and faithfully kept and performed by it. If the value at which the said stock is to be purchased by the Atchison Co. as aforesaid shall not be agreed on by the Atchison Co. and the first parties, then such value shall be determined by arbitrators to be chosen as follows: to wit: one arbitrator by the Atchison Co. another by the first parties or a majority of them and the third by the two thus chosen, but if the first parties or a majority of them, or the Atchison Co. shall fail to choose an arbitrator within ten days after notice from the other of the choice of an arbitrator on its or their part, the arbitrator chosen by the party giving the first notice shall choose the second arbitrator and the two thus chosen shall choose the third.

The arbitrators so chosen or a majority of them shall promptly take up the matter so to be submitted to them and after affording the first parties or a majority of them and the Atchison Co. an opportunity to be heard, shall

Option to purchase majority of stock of M. T. Ry. Co.

Collbran *et al.* agree to deliver within 30 days 51 % of M. T. stock to Northern Trust Co. as trustee.

Atchison Co. to have option up to year 1900 to purchase said stock at market or cash value.

But not to exercise such option before 1896, if provisions of said traffic agreement are kept by M. T. Co.

Provision for arbitration in case parties fail to agree on value of stock when option is exercised.

Award under such arbitration.

Option to purchase majority of stock of M. T. Ry. Co.

ascertain, determine and award the value of the said stock so to be paid by the Atchison Co. as aforesaid and shall reduce their award to writing and sign the same and furnish counterparts or duly authenticated copies thereof to each of the parties hereto.

Performance of such award.

At any time within thirty days after receiving a counterpart or certified copy of said award, but not afterwards, the Atchison Company may pay the Trustee the value of the stock so awarded by the arbitrators, and thereupon the trustee shall transfer, assign and deliver the certificates of such stock to the Atchison Company.

On receiving the value of stock from Atchison Co. as aforesaid, Trustee shall distribute same among Collbran *et al.*. If Atchison Co. fails to exercise option within time limited, or having elected fails to pay amount awarded, Trustee shall return stock to Collbran *et al.*

(2) Immediately upon receiving the value of such stock from the Atchison Company, as aforesaid, the trustee shall pay the same over to the first parties in equal proportions, or as they shall direct.

(3) If the Atchison Company shall not elect to purchase the said shares of stock within the time above limited, or after having elected to purchase such stock shall not pay the value awarded therefor by the arbitrators within the time above limited, its right to purchase such stock shall absolutely cease and terminate and the trustee shall immediately reassign, transfer and deliver such stock in equal proportions to the first parties, or as they shall direct.

Collbran *et al.* may vote on such stock while held in trust, except that capital stock shall not be increased without consent of Atchison Co.

(4) Until the Atchison Company shall have elected to purchase such stock so to be placed in trust as aforesaid, the first parties shall be entitled to vote the same, except upon the subject of increasing the present authorized issue of capital stock of the Midland Terminal Railway Company, which capital stock shall not be increased without the vote of such stock and the consent of the Atchison Company.

Trustee shall execute proxies to Collbran *et al.* to vote on all questions except increase of capital stock. Trustee shall vote against such increase or authorize Atchison Co. or other proxy to do so.

The trustee shall, execute to the first parties, or to such person or persons as they shall by a majority direct, proper proxies or powers of attorney to vote such stock at all meetings of the stockholders, save and except upon the proposition to increase the present authorized capital stock of said Company, and upon such questions, the trustee shall either vote at such meeting against such proposition,

or execute to the Atchison Company, or to whomsoever it shall direct, proper proxies or powers of attorney to vote such stock at any such meeting against any such proposition to increase such capital stock.

Option to purchase majority of stock of M. T. Ry. Co.

The stock so to be transferred assigned and delivered to the trustee, shall be transferred upon the books of the Company, so that the same shall show upon their face that the trustee is the owner and holder of the legal title to such stock, as trustee.

Said stock to be transferred to Trustee on books of M. T. Co.

The Atchison Company shall have the right to all dividends declared and remaining unpaid at the time of its election to purchase such stock.

Atchison Co. to be entitled to any dividends declared and unpaid at time of election to purchase said stock.

SECTION 2: The expense of administering this trust and the compensation of the trustee shall be paid by the first parties and the Atchison Company in equal proportions.

Expenses and compensation of Trustee to be paid equally by the parties.

SECTION 3: The trustee shall not be liable for mere errors or mistakes, but only for wilful or intentional acts or defaults.

Limitation of liability of Trustee.

IN WITNESS WHEREOF, the corporate parties hereto have caused their respective corporate seals to be impressed hereon and this instrument to be signed by their respective proper officers, and the individual parties hereto have hereunto signed their names the day and year first herein set forth.

Attesting clause.

H. COLLBRAN.
H. P. LILLIBRIDGE.
R. NEWELL, JR.

ATCHISON, TOPEKA & SANTA FE R.R. Co.

By A. MANVEL,

[Seal]

President.

L. C. DEMING,

Assistant Secretary.

NORTHERN TRUST COMPANY,

[Seal]

By BYRON L. SMITH,

President.

ARTHUR HEURTLEY,

Secretary.

TRAFFIC AGREEMENT

BETWEEN

THE MIDLAND TERMINAL RAILWAY CO.,
THE COLORADO MIDLAND RAILWAY CO.

AND THE

ATCHISON COMPANY

REFERRED TO IN FOREGOING AGREEMENT AND MADE PART OF
TERMS OF OPTION.

Nov. 1, 1892.
Parties.

AN AGREEMENT, made and entered into the first day of November A.D. 1892, by and between the MIDLAND TERMINAL RAILWAY COMPANY, hereinafter called the "Terminal Company," the COLORADO MIDLAND RAILWAY COMPANY, hereinafter termed the "Midland Company" and the ATCHISON, TOPEKA & SANTA FE RAILROAD COMPANY, hereinafter referred to as the "Atchison Company."

WHEREAS, the Terminal Company is now engaged in constructing a narrow gauge railway from Divide, a station upon the railway of the Midland Company, to, into and about the mining camp known and called Cripple Creek, a distance of about thirty miles, for the purpose of furnishing transportation facilities to and from the different mines, mills, and manufactories in and about said mining camp, from and to smelters and other industries in, about and upon the railways of the Midland and Atchison Companies respectively, and to other points;

AND WHEREAS, the Midland Company owns and operates a line of railway extending from a point of junction with the railway of the Atchison Company, at Colorado Springs, in the State of Colorado westerly to Grand Junction and a point of Junction with the railway of the Rio Grande Western Railway Company;

AND WHEREAS, the Atchison Company owns and operates in its own right, many miles of railway, and through stock-ownership controls many other miles of railway, including the railway of the Midland Company, the whole known and designated as the Atchison system, aggregating nine thou-

sand, three hundred and twenty-seven miles, and extending from the City of Chicago to the Cities of San Diego and Los Angeles in California, via the cities of Denver, Pueblo and Colorado Springs, to the City of St. Louis, to the city of Galveston, to the city of El Paso to a point of junction with the railway of the Mexican Central Railway Company, extending to and into the City of Mexico, in the Republic of Mexico, to the City of Guaymas in the State of Sonora in the Republic of Mexico, and a point upon the Gulf of California, to Mojave, a point of junction with the railway of the Southern Pacific Company, with whom a traffic arrangement exists for running through trains to the City of San Francisco and intermediate points in the State of California, and embracing large and extensive terminal facilities in the Cities of Chicago, St. Louis and other points upon the Atchison System;

Traffic Agreement
with Midland
Terminal Ry. Co.
referred to in
foregoing Agreement
of option.

AND WHEREAS, it is believed by the parties hereto that their own and the public interests will be best subserved by establishing and maintaining a close alliance between their several railways, whereby there may be secured to each the friendly assistance and co-operation of the other, in all reasonable and lawful ways, in reducing the expenses which would otherwise be incurred in securing and transporting the traffic to be interchanged between them as hereinafter provided.

NOW, THEREFORE, in consideration of the premises and of the benefits and advantages secured to each of the parties hereto, they severally covenant and agree with each other as follows:—

ARTICLE I.

THE TERMINAL COMPANY COVENANTS AND AGREES WITH THE MIDLAND COMPANY AND WITH THE ATCHISON COMPANY.

SECTION I.—That it will construct, complete and put in operation its said contemplated line of railway from a point adjacent to the railway of the Midland Company at the station of Divide, to, in and about the mines, mills, manufactories and other industries in and about the said camp of Cripple Creek, on or before the first day of June, A.D. 1893, in such manner that traffic can and will be safely, securely and promptly received, transported and delivered to all points thereon.

And that it will establish such instrumentalities for the

Traffic Agreement
with Midland
Terminal Ry. Co.
referred to in
foregoing Agreement
of option.

transfer of traffic from and to its railways to and from the railways of the Midland Company, and in such location at the said station of Divide as shall be approved by the Chief Engineer of the Midland Company, the Midland Company consenting to the placing of a third rail in its track at said station for that purpose, in such manner as its Chief Engineer shall approve.

SECTION II.—That so far as it lawfully can, it will deliver to the Midland Company at or near said station of Divide all traffic received by it and destined to points upon or reached by the railways of the Midland Company or to the Cities of Denver, Pueblo, and Leadville and intermediate points or to any point which can be reached with reasonable directness by through lines, composed in whole or in part of the whole or portions of the said railways of the said parties hereto, and that it will make all lawful and reasonable efforts to secure the transportation of all such traffic received by it over such through lines.

In case the Terminal Company shall extend its railway southerly towards or to the railway of the Denver & Rio Grande Railroad Company, at or in the vicinity of Canon City or Florence, it shall also extend the same to the Canon City line of the Atchison Company, or if it fails to do so, after demand made by the Atchison Company therefor, the Atchison Company may extend its own railway to meet the same, and in either event all traffic having origin or destination upon the railways of the Terminal Company and destination or origin upon the Canon City line of the Atchison Company, or at Pueblo, or passing through Pueblo to or from points beyond, or having origin or destination at any point upon the railway of the Atchison Company between but not including Colorado Springs and Pueblo, or between Pueblo and Canon City, shall be moved via the line last above described, and all other traffic shall be moved via the Station of Divide.

That it will establish such instrumentalities for the transportation of traffic from and to its railways from and to the railways of the Atchison Company and at such location as shall be approved by the Chief Engineer of the Atchison Company, the Atchison Company consenting to the placing of a third rail in its track for that purpose in such manner as its Chief Engineer shall approve.

SECTION III.—That it will receive from the Midland Company at the place appointed for the interchange of traffic at said station of Divide, all traffic offered to it at that point by the Midland Company and at the place

appointed for the interchange of traffic with the Atchison Company upon its Canon City line, all traffic offered to it at that point by the Atchison Company, and will safely securely and promptly transport and deliver all such traffic at destination, when upon its own railway, or to a connecting common carrier if there at any time be such, when the destination is beyond its own line.

Traffic Agreement
with Midland
Terminal Ry. Co.
referred to in
foregoing Agreement
of option.

SECTION IV.—That it will furnish all equipment of every character for the transportation of the traffic contemplated herein over its own lines of railway.

ARTICLE II.

THE MIDLAND COMPANY AND THE ATCHISON COMPANY COVENANT AND AGREE WITH THE TERMINAL COMPANY.

SECTION I.—That so far as it lawfully can, the Midland Company will deliver to the Terminal Company at the place appointed therefor, at the said station of Divide, all traffic received by it for transportation to any point which can be reached with reasonable directness by a through line composed in whole or in part of the whole or portions of the railways of the parties hereto, and that it will make all lawful and reasonable efforts to secure the transportation of all such traffic received by it over such through line.

That it will receive from the Terminal Company at the said place appointed therefor, all traffic which that Company shall offer to it at that point and will transport and deliver the same at destination if upon its own railway, or to the proper connecting common carrier when such destination is beyond its own lines.

That it will furnish all equipment of every character for the transportation of the traffic contemplated hereby, over its own line of railway to and from said station of Divide.

SECTION II.—That so far as it lawfully can, the Atchison Company will deliver to the Terminal Company at the place which shall be established therefor under section two of the preceding article, all traffic received by it for transportation and embraced by said section two, to any point which can be reached with reasonable directness by a through line composed in whole or in part of the whole or portions of the railways of the parties hereto, as mentioned in said section two, and that it will make all lawful and reasonable efforts to secure and transport all of such traffic received by it over such through line.

Traffic Agreement
with Midland
Terminal Ry. Co.
referred to in
foregoing Agreement
of option.

That it will receive from the Terminal Company all traffic which that company shall offer to it at the said point, and will transport and deliver the same at destination if upon its own railways, or to the proper connecting common carrier when such destination is beyond its own lines.

That it will furnish all equipment of every character, for the transportation of the traffic contemplated hereby, over its own lines of railway to and from the said point upon its Canon City lines.

SECTION III.—The Midland Company covenants and agrees that it will make such repairs upon the engines, cars and other equipment or appurtenances of the Terminal Company, either at Divide or Colorado City, with due and reasonable dispatch, which it has for the time being facilities to make at the actual cost to it of such repairs, with ten per cent. of such cost added thereto for supervision, superintendence and general expense.

Bills therefor shall be made against the Terminal Company by the Midland Company, monthly, and shall be paid by the Terminal Company within thirty days after the receipt of a detailed statement thereof.

The Terminal Company shall also pay the Midland Company reasonable compensation for the transportation of engines, cars and other equipment or appurtenances repaired for the Terminal Company, from and to the said station of Divide to and from the point aforesaid where the repairs shall be made, with the actual cost of transfers.

SECTION IV.—That it will fill duly authenticated requisitions of the Terminal Company for all materials and supplies necessary to the operation and maintenance of the Terminal Company's line of railway, with due diligence and dispatch, and shall charge the Terminal Company therefor the actual cost, including freight, of such materials and supplies, plus ten per cent. for supervision and handling such bills to be paid by the Terminal Company within thirty days after their receipt by it.

ARTICLE III.

THE PARTIES HERETO COVENANT AND AGREE WITH EACH OTHER.

SECTION I.—Each will construct and maintain its own railways and the appurtenances thereunto belonging in such condition as will enable each to promptly and safely

receive, transport and deliver all the traffic contemplated hereby.

SECTION II.—All traffic contemplated hereby and received for transportation over any through line composed of aforesaid shall, when it is freight traffic, be way-billed, and when passenger traffic, be ticketed from the point at which it shall be received, on any railways of any party hereto to the point of destination, if upon any such railway, or to the point at which it shall be delivered to a connecting carrier, not a party hereto.

SECTION III.—Each party shall control the movement of traffic on its own railway and defray all expenses which may be incurred in securing, controlling, moving and handling the same upon its own railway.

SECTION IV.—In making time schedules for the movement of trains, the same shall be so formulated that such close connection between the lines shall be made as shall best subserve the public interest in all respects.

SECTION V.—Subject to the restrictions hereinafter set forth, through rates to Denver, Pueblo, Colorado Springs, Aspen and Grand Junction and intermediate points for the transportation of the traffic contemplated hereby, having origin upon the railway of the Terminal Company, shall be fixed by that Company. Through rates for the transportation of traffic contemplated hereby, having destination upon the railway of the Terminal Company, shall be fixed by the Midland Company or the Atchison Company or both;

PROVIDED HOWEVER, and it is distinctly agreed and understood that, except the assent of the proper official of the Midland or Atchison Companies thereto is first procured in writing, the Terminal Company shall not make, and the Midland and Atchison Companies shall not be required to participate in, any freight rate or rates that will yield to the Midland Company less than 1 cent per ton per mile; or that will yield to the Atchison Company, on business destined to Pueblo and intermediate points, less than 1 cent per ton per mile; or to the Atchison Company on business destined to Denver and intermediate points less than $\frac{1}{2}$ cent per ton per mile, plus expenses incurred or paid for deliveries beyond its own tracks, with a minimum revenue of 25 cents per consignment to each the Midland and Atchison Companies: and

PROVIDED FURTHER, that, except the assent of the proper official of the Terminal Company thereto is first procured in writing, the Midland or Atchison Companies

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shall not make, and the Terminal Company shall not be required to participate in, any freight rate or rates that will yield to the Terminal Company on shipments of coal, coke, ore, lime rock, grain, lumber or timber, mining timbers, building stone, brick cement and salt, less than 60 cents per ton of 2,000 pounds; nor any rate or rates on either classes of freight or commodities that will yield the Terminal Company less than 10 cents per hundred pounds, with a minimum revenue to the Terminal Company of 25 cents per consignment, for the haul over all or any portion of its railway, unless it shall accept at any time from any other carrier or shipper a lesser compensation than that above named for substantially a similar service and the Terminal Company hereby agrees to notify the Atchison Company and the Midland Company thereof, and will thereafter accept such reduced compensation from the Midland and Atchison Companies.

SECTION VI.—Rates upon all the business embraced hereby, from or to all points upon the lines of the Terminal Company to or from all points on the lines of the Midland Company, or the Atchison Company and Denver and Pueblo and intermediate points and on business passing through any of said points, shall be made by adding the local rates of the Terminal Company to the rates of the Midland and Atchison Companies beyond or up to the points of interchange herein provided for, excepting, when by reason of competition, or by the requirements of competent lawful authority, for the transportation of the traffic contemplated hereby, it becomes necessary to make any through rate or rates that will aggregate less than the sum of the local rates before mentioned, then and in that event the gross earnings upon such through traffic shall be divided in the following proportions, always provided, that the minimums named in section five of article three hereof shall be regarded, unless the assent of the parties to a lesser rate or rates shall have been first obtained in writing:

(1) On traffic having origin or destination at Denver, or points between Denver and Colorado Springs, but not including the latter, and destination or origin at any point upon the railway of the Terminal Company, 38% to the Terminal Company and the remainder to the Midland and Atchison Companies.

(2) On traffic having origin or destination at Pueblo, or points between Pueblo and Colorado Springs, but not including the latter, moved via said station of Divide, and destination or origin at any point upon the railway of the

Terminal Company, 46% to the Terminal Company and the remainder to the Midland and Atchison Cos.

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(3) On traffic having origin or destination at Colorado Springs, or points between Colorado Springs and the station of Divide, but not including the latter, and destination or origin at any point upon the railway of the Terminal Company, 63% to the Terminal Company and the remainder to the Midland Company.

(4) On traffic having origin or destination at Lake George, or any point between Lake George and Divide, but not including the latter, and destination or origin at any point upon the railway of the Terminal Company 79% to the Terminal Company and the remainder to the Midland Company.

(5) On traffic having origin or destination at Leadville, or any point between Leadville and Lake George, but not including the latter, and destination or origin at any point upon the railway of the Terminal Company, 31% to the Terminal Company and the remainder to the Midland Company.

(6) On traffic having origin or destination at Aspen or New Castle, or any point between Aspen and New Castle, including points on Jerome Park Coal Branch, and Leadville, but not including the latter, and destination or origin at any point upon the railway of the Terminal Company, 20% to the Terminal Company and the remainder to the Midland Company.

(7) On traffic having origin or destination at Grand Junction or any station between Grand Junction and New Castle, but not including the latter, and destination or origin at any point upon the railway of the Terminal Company, 15% to the Terminal Company and the remainder to the Midland Company.

(8) On traffic having origin or destination at any point upon the railway of the Terminal Company and moving via said station of Divide and passing through Grand Junction to or from points beyond, or passing through Colorado Springs to or from any points beyond and east of same, or beyond Pueblo or Denver, the divisions of earnings between the Terminal Company and the Midland Company shall be based upon the then existing rates between Denver, Pueblo, Colorado Springs or Grand Junction and the points of origin or destination of such traffic upon the railway of the Terminal Company.

(9) If the Terminal Company's railway shall be extended as mentioned in section two of article one hereof,

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the divisions on traffic moved over such extension to and from points upon or beyond the Atchison Company's railway, shall be substantially upon the same basis as hereinbefore provided with respect to business moved via Divide as aforesaid, and if the parties shall not agree thereon, the same shall be determined by arbitrators to be chosen as hereinafter provided.

SECTION VII.—Full and accurate accounts shall be kept by each party of all the through traffic of every character whatsoever, transported by it hereunder, complete statements of which shall be furnished by each party to the other within thirty days immediately succeeding the last day of the month covered by such statement; and the balances due from either to the other as shown thereby, shall be paid within fifteen days after the exchange of such statement is completed.

The Midland Company shall keep true and accurate accounts of all expenses incurred or paid for the purposes contemplated in Section ten of this article, and the Atchison Company shall keep like accounts of all expenses by it paid or incurred for the purposes contemplated by Section eleven of this article.

The Midland and Atchison Companies respectively, shall furnish to the Terminal Company within fifteen days after the close of each calendar month a statement of said accounts and within fifteen days thereafter the Terminal Company shall pay each of said companies the amounts shown thereby to be due from such statements.

If at any time any question arises as to the accuracy of accounts rendered by either of the parties, respecting the quantity of or revenue accruing on such through business, either party shall upon the written request of its General Manager or Auditor, be afforded every necessary facility for the purpose of checking such disputed statements, including access to all accounts, way-bills, etc., pertaining to such through business, which access shall be freely accorded by the party or parties whose statements of account may be questioned.

SECTION VIII.—Liability for damage to persons or property in transit over the through lines hereby established shall be borne and paid by the party upon whose railway the damage shall have occurred.

When the location of the cause of the injury or damage is concealed or unknown, injuries or damages sustained shall be borne and paid by the parties in the same ratio in which they share in the through rate provided herein for its transportation.

For the purposes of this agreement, damages and losses sustained through the transfer of traffic from standard gauge to narrow gauge cars, and vice versa, at the place or places established hereunder therefor, shall be considered as concealed losses or damages, and the cost thereof apportioned between the parties hereto between whom such transfer shall be made, in equal proportions.

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SECTION IX.—The Atchison Company agrees to transport all equipment, materials and supplies of whatsoever character to be used in the construction, operation and maintenance of the lines of the Terminal Company at the rate of one half cent per ton per mile with a minimum charge of 25 cents per consignment. The Midland Company agrees to transport all such equipment, materials and supplies for the Terminal Company at the rate of one cent per ton per mile, with a minimum charge of 25 cents per consignment: And the Terminal Company agrees to receive and forward all equipment, materials and supplies for its own use via the lines of the Midland Company and Atchison Company exclusively.

SECTION X.—The Midland and Terminal Companies will establish and maintain at Divide Station, a joint agency, including a joint agent, such assistants, operators, clerks, yard men, transfer force etc., as may from time to time be found necessary, and divide the total expense incident to or connected with the operation and maintenance of such joint agency and transfer station, equally, viz: 50% to be borne by the Midland Company and 50% by the Terminal Company. The plant, including tracks, etc., to be used by either company exclusively at Divide Station, to be provided for and paid by the company enjoying such exclusive use, but all plants, tracks, buildings, etc., used and owned jointly and which it may hereafter be necessary to erect or construct, shall be provided by the Midland and Terminal Companies at their joint and equal expense. If at any time the Midland and Terminal Companies shall be unable to agree as to the nature or cost of a joint plant, tracks, buildings, etc., to be hereafter provided, or to be increased from time to time as the increase of business may seem to warrant, such difference shall be arbitrated in the manner and form hereinafter provided.

All employees at said joint agency, shall be employed by and carried on the pay rolls of the Midland Company; such joint employe or employes shall be suspended or discharged from the service thereat upon proof of failure or neglect of duty, or partial or unfair treatment in favor of or against either party.

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SECTION XI.—In case the Terminal Company's railway shall be extended as mentioned in section two, article one hereof, the Terminal Company and the Atchison Company jointly, shall and will establish and maintain thereat, a joint agency including a joint agent, such assistants, operators, clerks, yard men, transfer force, etc., as may from time to time be found necessary, and divide the total expense incident to and connected with the operation and maintenance of such joint agency and transfer station equally, viz: 50% by the Terminal Company and 50% by the Atchison Company.

The plant, including tracks, etc., to be used by either company exclusively thereat to be provided for and paid by that one of them enjoying its exclusive use, but all plants, tracks, buildings, etc., used and owned jointly and which it may hereafter be found necessary to erect or construct, shall be provided for by the Atchison and Terminal Companies at their joint and equal expense.

If at any time they shall be unable to agree as to the nature or cost of a joint plant, tracks, buildings, etc., to be provided or to be increased from time to time as the increase of business may seem to warrant, such difference shall be arbitrated in the manner and form hereinafter provided.

All employes at such joint agency shall be employed by and carried on the pay rolls of the Atchison Company; such joint employe or employes shall be suspended or discharged from the service thereat upon proof of failure or neglect of duty, or partial or unfair treatment in favor of or against either party.

SECTION XII.—It is distinctly understood and agreed that, if at any time during the full term of this contract, the Terminal Company shall for any cause, change the gauge of its railway from the three feet to four feet eight and one-half inches, this agreement shall, nevertheless, remain in full force and effect; and thereafter the parties shall freely exchange freight and passenger equipment upon the usual terms and conditions governing such exchanges including the payment of customary and usual mileage thereon; and each party shall also furnish its proper quota of freight and passenger equipment, based upon the entire mileage of the Terminal and Midland Companies and of the Atchison Company between Denver and Pueblo, thereafter used or to be used in conducting the through business hereby contemplated.

SECTION XIII.—If any difference shall arise between

the Terminal Company and the Atchison or Midland Companies, as to the intent or construction of this agreement, or as to the performance or failure to perform any covenant, promise or agreement herein contained, either may demand the determination thereof by arbitrators.

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The party demanding the arbitration shall serve upon the other party a written notice of such demand, and the name of one disinterested person who shall act as arbitrator; the other party shall within ten days after receiving such notice select a second disinterested person, who shall act as arbitrator, and give the party giving the first notice due notice thereof; but if the other party shall fail so to do within the time limited, the arbitrator chosen by the party giving the first notice shall select the second and the two thus chosen shall select the third.

The arbitrators chosen in either of said modes, shall fix a time and place for hearing and give the parties reasonable notice thereof, and at the time and place so fixed and notified, they shall proceed with the hearing, unless it shall be continued for cause shown.

As soon as practicable after a final submission of the matter in controversy, the arbitrators shall decide the matter so submitted to them; shall reduce their decision or award to writing and sign the same, and serve duly authenticated copies thereof upon each of the parties to the controversy.

The determination of the matter so submitted by a majority of the arbitrators and their signatures to the award, shall be as valid and binding as if determined and the award signed by all arbitrators, and shall bind each and all of the parties to this agreement.

SECTION XIV.—This agreement shall bind the parties hereto, their respective successors and assigns and shall attach to and run with their respective railways, appurtenant properties and franchises.

Agreement to bind
successors and
assigns.

It shall become effective from time to time as the Terminal Company shall complete and put in operation the whole or portions of the said contemplated railway, and shall continue in effect until the termination of the remainder of an unexpired term of twenty-five years, computed from the First day of January, A.D. 1893.

Agreement to take
effect from time to
time as railway of
Terminal Co. shall
be completed and
put in operation, and
continue in effect
25 years from
Jan. 1, 1893.

IN WITNESS WHEREOF, the parties hereto have caused their respective corporate seals to be impressed hereon and the signatures of their respective proper officers to be

The C. M. Ry. Co.

1022

Traffic Agreement
with Midland
Terminal Ry. Co.
referred to in
foregoing Agreement
of option.

affixed hereto in triplicate originals and interchangeably,
the day and year first herein set forth.

THE MIDLAND TERMINAL RAILWAY COMPANY.

By H. P. LILLIBRIDGE,
President.

[SEAL]

Attest:

E. F. SMITH,
Secretary.

THE COLORADO MIDLAND RAILWAY COMPANY.

By A. MANVEL,
President.

[SEAL]

Attest:

E. W. SELLS,
Secretary.

THE ATCHISON, TOPEKA & SANTA FE R.R. CO.

By A. MANVEL,
President.

[SEAL]

Attest:

L. C. DEMING,
Assistant Secretary.

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